AMENDED IN ASSEMBLY JANUARY 4, 2010

AMENDED IN ASSEMBLY MAY 19, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL No. 1016

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

February 27, 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, 25411, 25412, 25413, 25414, 25415, 25416, 25417, 25417.5, 25419, 25420, 25421, 25426, 25433.5, 25434, 25434.5, 25435, 25436, 25441, 25442, 25442.5, 25442.7, 25443, 25443.5, 25445, 25449, 25449.1, 25449.3, 25449.4,~~

~~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, 25449.2, 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, 346, 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 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.~~ *An act to amend Section 1250.310 of the Code of Civil Procedure, to amend Section 14074 of the Corporations Code, to repeal Sections 17925 and 41304 of, and to repeal Part 10.7 (commencing with Section 17910) of Division 1 of Title 1 of, the Education Code, to amend Sections 32940 and 32942 of the Financial Code, to amend Sections 9100 and 9101 of the Fish and Game Code, to amend Sections 11041, 11550, 11553, 11553.5, 12802.5, 12805, 14450, 14684, 14684.1, 15814.22, 15814.23, 15814.30, 15814.34, 16366.2, 16366.35, 16366.6, 16366.7, 16367.6, 66645, and 66646 of, to amend and renumber Section 15814.25 of, to amend, repeal, and add Sections 12730 and 16367.5 of, to repeal Sections 16366.3,* *16366.4, 16366.5, 16366.8, 16366.9, 16367.61, 16367.65, 16367.7, and 16367.8 of, and to repeal and add Section 16366.1 of, the Government Code, to amend Sections 3808, 3810, 3822, 3822.1, 3822.2, 4799.16, 6815.2, 14584, 21080, 25000.1, 25005.5, 25104, 25106, 25107, 25110, 25112, 25123, 25205, 25207, 25209, 25210, 25211, 25212, 25213, 25214, 25215 25216, 25216.3, 25216.5, 25217.1, 25218, 25218.5, 25220, 25221, 25222, 25223, 25224, 25225, 25226, 25301, 25302, 25303, 25304, 25305, 25305.5, 25306, 25310, 25320, 25321, 25322, 25323, 25324, 25331, 25332, 25333, 25334, 25335, 25336, 25337, 25338, 25339, 25340, 25341, 25354, 25356, 25357, 25358, 25362, 25364, 25366, 25400, 25401, 25401.2, 25401.5, 25401.6, 25401.7, 25401.9, 25402, 25402.1, 25402.2, 25402.3, 25402.4, 25402.5, 25402.5.4, 25402.6, 25402.7, 25402.8, 25402.9, 25403, 25403.5, 25403.8, 25404, 25405.5, 25405.6, 25410.5, 25410.6, 25412, 25413, 25414, 25415, 25416, 25417, 25417.5, 25419, 25420, 25422, 25426, 25433.5, 25434, 25434.5, 25441, 25442, 25442.5, 25442.7, 25443, 25443.5, 25445, 25449.3, 25450, 25450.1, 25450.3, 25450.4, 25450.5, 25460, 25461, 25462, 25463, 25470, 25471, 25472, 25473, 25474, 25494, 25495, 25496, 25500, 25500.5, 25501, 25501.7, 25508, 25517, 25519, 25520, 25521, 25522, 25523, 25524.1, 25524.2, 25525, 25526, 25527, 25528, 25529, 25530, 25531, 25532, 25534, 25534.1, 25534.2, 25537, 25538, 25539, 25540, 25540.1, 25540.2, 25540.3, 25540.5, 25541, 25541.1, 25541.5, 25542, 25543, 25601, 25602, 25603, 25605, 25605.5, 25608, 25609, 25609.5, 25610, 25616, 25617, 25618, 25630, 25650, 25678, 25679, 25696, 25696.5, 25697, 25700, 25701, 25702, 25703, 25704, 25705, 25720, 25721, 25722, 25722.5, 25722.6, 25722.7, 25723, 25740.5, 25741, 25771, 25772, 25773, 25782, 25783, 25784, 25802, 25803, 25900, 25901, 25902, 25910, 25911, 25912, 25942, 25960, 25961, 25962, 25963, 25964, 25965, 25967, 25968, 26004, 26011.5, 26011.6, and 30404 of, to amend the heading of Chapter 3 (commencing with Section 25200) of Division 15 of, to add Sections 3806.5, 25104.1, 25104.2, 25205.5, 25207.5, 25208, 25544, and 25545 to, to amend and repeal Section 25449 of, to add Chapter 3.5 (commencing with Section 25227) to Division 15 of, to add Chapter 5.10 (commencing with Section 25499) to Division 15 of, to repeal Sections 3805.5, 25113, 25217, 25217.5, 25502, 25502.3, 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, 25540.6, and 25603.5 of, to repeal Article 3 (commencing with Section 25435) of*

Chapter 5.3 of Division 15 of, and to repeal and add Sections 25120, 25200, 25201, 25202, 25203, 25204, 25206, and 25219 of, the Public Resources Code, to amend Sections 332.1, 348, 352, 353.7, 366.1, 366.2, 384, 398.3, 398.5, 399.2.5, 399.8, 399.11, 399.12, 399.12.5, 399.13, 399.15, 399.16, 399.17, 454.5, 464, 848.1, 1001, 1731, 1768, 1822, 2774.6, 2826.5, 2827, and 9502 of, to add Sections 322, 345.1, 345.2, and 411 to, to repeal Sections 346, 350, 360, 365 of, and to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1016, as amended, Villines. Energy: commission and department.

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

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

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

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

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

The bill would transfer all responsibilities with respect to the certification of certain electric transmission facilities from the Public Utilities Commission to the exclusive jurisdiction of the California Energy Board. The bill would require the Department of Energy, on or before January 1, 2012, in consultation with the Public Utilities Commission and the Independent System Operator, to submit to the Governor and the Legislature a strategic plan identifying administrative and statutory measures that would improve the siting and licensing process for electric transmission lines.

(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 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.

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

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

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

This bill would repeal this program.

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

This bill would repeal the program and competition.

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

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

~~(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.~~

~~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 will 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 existing Energy Conservation Assistance Act of 1979 establishes, until January 1, 2011, a loan program to provide loans to specified eligible institutions to maximize energy use savings in existing and planned buildings or facilities. The act requires an eligible institution receiving an allocation to compute, annually at the conclusion of each fiscal year, the cost of energy saved as a result of implementing a project funded by the allocation.~~

~~This bill would extend the program to January 1, 2026, and would, additionally, include a joint powers authority, as defined, as an eligible institution. The bill would, additionally, define energy conservation measures to include measures that would reduce peak load. The bill would, instead, require an eligible institution to make the above computation annually for 3 years after the completion of the energy conservation project.~~

~~(7) Existing law establishes, until January 1, 2010, a financial assistance program by providing loans to local jurisdictions for the purposes of reducing energy costs by providing staff training and support services, including planning design, permitting, energy conservation,~~

~~comprehensive energy management, project evaluation, and development of alternative energy resources. Existing law requires the State Energy Resources Conservation and Development Commission, no later than 3 year after the imposition of a fee pursuant to the program, to report to the Legislature in the commission's biennial energy conservation report on the effects of the fees on alternative public and private financing for public sector programs.~~

~~This bill would extend the financial assistance program to January 1, 2026, and would, additionally, authorize the use of funds from the loans to purchase, maintain, and evaluate peak load reduction equipment for existing and planned facilities. The bill would also repeal the above reporting provision.~~

~~(8) The bill would make conforming changes in existing law.~~

~~(9) 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:

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

1250.310. The complaint shall contain all of the following:

(a) The names of all plaintiffs and defendants.

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

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

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

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

(2) An allegation of the necessity for the taking as required by Section 1240.030; where the plaintiff is a public entity, a reference to its resolution of necessity; where the plaintiff is a quasi-public entity within the meaning of Section 1245.320, a reference to the resolution adopted pursuant to Article 3 (commencing with Section 1245.310) of Chapter 4; where the plaintiff is a nonprofit hospital, a reference to the certificate required by Section 1260 of the Health

and Safety Code; where the plaintiff is a public utility and relies on a certification of the ~~State Energy Resources Conservation and Development Commission~~ *California Energy Board* or a requirement of ~~that commission~~ *the California Energy Board* that development rights be acquired, a reference to ~~such~~ *that* certification or requirement.

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

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

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

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

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

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

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

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

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

~~(b) In addition, subject to Section 41305, there shall be appropriated from the Driver Training Penalty Assessment Fund to the General Fund, then to the State School Fund each fiscal year, the sum the Superintendent of Public Instruction certifies as~~

~~necessary to reimburse on a quarterly basis for each current fiscal year school districts, county superintendents of schools, the Department of the Youth Authority, and the State Department of Education for the actual cost of instructing pupils in the operation of motor vehicles.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11041. (a) Sections 11042 and 11043 do not apply to the Regents of the University of California, the Trustees of the California State University, Legal Division of the Department of Transportation, Division of Labor Standards Enforcement of the Department of Industrial Relations, Workers' Compensation Appeals Board, Public Utilities Commission, *Department of Energy,* State Compensation Insurance Fund, Legislative Counsel Bureau, Inheritance Tax Department, Secretary of State, State Lands Commission, Alcoholic Beverage Control Appeals Board (except when the board affirms the decision of the Department of Alcoholic Beverage Control), State Department of Education, and Treasurer with respect to bonds, nor to any other state agency which, by law enacted after Chapter 213 of the Statutes of 1933, is authorized to employ legal counsel.

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

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

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

(1) Director of Finance.

(2) Secretary of Business, Transportation and Housing.
(3) Secretary of the Resources Agency.
(4) Secretary of California Health and Human Services.
(5) Secretary of State and Consumer Services.
(6) Commissioner of the California Highway Patrol.
(7) Secretary of the Department of Corrections and Rehabilitation.
(8) Secretary of Food and Agriculture.
(9) Secretary of Veterans Affairs.
(10) Secretary of Labor and Workforce Development.
(11) State Chief Information Officer.
(12) Secretary for Environmental Protection.
(13) Secretary of California Emergency Management.
(14) Secretary of Energy.

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

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

11553. (a) Effective January 1, 1988, an annual salary of eighty-one thousand six hundred thirty-five dollars ($81,635) shall be paid to each of the following:
(1) Chairperson of the Unemployment Insurance Appeals Board.
(2) Chairperson of the Agricultural Labor Relations Board.
(3) President of the Public Utilities Commission.
(4) Chairperson of the Fair Political Practices Commission.
~~(5) Chairperson of the Energy Resources Conservation and Development Commission.~~
~~(6)~~
(5) Chairperson of the Public Employment Relations Board.
~~(7)~~
(6) Chairperson of the Workers' Compensation Appeals Board.
~~(8)~~
(7) Administrative Director of the Division of Industrial Accidents.
~~(9)~~
(8) Chairperson of the State Water Resources Control Board.

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

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

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

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

(1) Member of the Agricultural Labor Relations Board.

(2) Member of the ~~State Energy Resources Conservation and Development Commission~~ *California Energy Board*.

(3) Member of the Public Utilities Commission.

(4) Member of the Public Employment Relations Board.

(5) Member of the Unemployment Insurance Appeals Board.

(6) Member of the Workers' Compensation Appeals Board.

(7) Member of the State Water Resources Control Board.

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

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

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

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

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

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

(c) "Director" means the Director of Community Services and Development.

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

(e) "Department" means the Department of Community Services and Development established pursuant to Article 8 (commencing with Section 12085) of Chapter 1.

(f) "Designation" means the formal selection of a proposed community action agency by the director, as provided in Section 12750.1.

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

(h) "Eligible beneficiaries" means all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) "Director" means the Director of Community Services and Development.

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

(e) "Department" means the Department of Community Services and Development established pursuant to Article 8 (commencing with Section 12085) of Chapter 1.

(f) "Designation" means the formal selection of a proposed community action agency by the director, as provided in Section 12750.1.

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

(h) "Eligible beneficiaries" means all of the following:

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

(2) All individuals eligible to receive Temporary Assistance for Needy Families under the state's plan approved under Public Law

104-193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code) or assistance under Part A of Title IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.).

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

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

(j) "Political subdivision" shall generally be deemed to mean county government, with the following exceptions:

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

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

(k) "Secretary" means the Secretary of the United States Department of Health and Human Services.

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

(m) "State plan" means the plan required to be submitted to the secretary to secure California's allotment of Community Services Block Grant funds, which shall be prepared and reviewed pursuant to the requirements of this chapter.

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

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

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

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

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

12805. (a) The Resources Agency is hereby renamed the Natural Resources Agency. The Natural Resources Agency consists of the departments of Forestry and Fire Protection, Conservation, Fish and Game, Boating and Waterways, Parks and Recreation, Resources Recycling and Recovery, and Water Resources; the State Lands Commission; the Colorado River Board; the San Francisco Bay Conservation and Development Commission; the Central Valley Flood Protection Board; ~~the Energy Resources Conservation and Development Commission;~~ the Wildlife Conservation Board; the Delta Protection Commission; the Native American Heritage Commission; the California Conservation Corps; the California Coastal Commission; the State Coastal Conservancy; the California Tahoe Conservancy; the Santa Monica Mountains Conservancy; the Coachella Valley Mountains Conservancy; the San Joaquin River Conservancy; the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy; the Baldwin Hills Conservancy; the San Diego River Conservancy; and the Sierra Nevada Conservancy.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) "Cost-effective" means that the present value of the savings generated over the life of the solar energy system, including consideration of the value of the energy produced during peak and off-peak demand periods and the value of a reliable energy supply

not subject to price volatility, shall exceed the present value cost of the solar energy equipment by not less than 10 percent. The present value cost of the solar energy equipment does not include the cost of unrelated building components. The department, in making the present value assessment, shall obtain interest rates, discount rates, and consumer price index figures from the Treasurer, and shall take into consideration air emission reduction benefits and the value of stable energy costs.

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

(3) "Solar energy equipment" means equipment whose primary purpose is to provide for the collection, conversion, storage, or control of solar energy for the purpose of heat production, electricity production, or simultaneous heat and electricity production.

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

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

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

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

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

~~15814.25.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Since 1975, California has administered the state's share of these federal programs, including the Low-Income Home Energy Assistance Program Block Grant (LIHEAP), provided for pursuant to the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.), and the United States Department of Energy Weatherization Assistance Program (DOE WAP), provided for pursuant to Title IV of the Energy Conservation and Production Act (Public Law 94-385, as amended) and pursuant to the United States Housing and Urban Development Residential Lead-Based Paint Hazard Reduction Act of 1992 (Public Law 102-550, as amended), in conjunction with other federal and state antipoverty programs that assist low-income families with achieving self-sufficiency.

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

(f) Consolidating the state's federally funded low-income energy programs in a new Department of Energy can assist the state with

achieving the objectives of the state’s energy plans through the quantification of the energy conserved and carbon emissions reduced as a result of the low-income weatherization activities.

(g) The funds from the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) are appropriated to the Department of Community Services and Development to implement the state’s federally funded low-income energy programs.

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

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

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

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

(i) It is the intent of the Legislature to have the Department of Community Services and Development administer the federal low-income energy programs through December 31, 2012, to ensure continuous allocation and distribution of funds from the federal American Recovery and Reinvestment Act of 2009. After that date, the federally funded low-income energy programs should be administered by the Department of Energy.

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

16366.2. As used in this article~~:~~*, “local service provider” means a public or private nonprofit entity, as defined by federal law and regulation, that provides service directly to eligible beneficiaries.*

~~(a) “Service provider” means any public or private nonprofit agency which provides service directly to categorical populations.~~

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

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

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

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

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

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

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

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

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

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

16366.35. ~~Counties~~ *Local service providers designated by the state* shall be granted maximum flexibility in administering federal categorical and block grant programs to the extent permitted by state planning requirements. It is the intent of the Legislature in enacting this section to provide ~~counties~~ *the local service providers* maximum flexibility in setting priorities in these programs for any reduced funding *consistent with federal and state law and policy*.

SEC. 31. Section 16366.4 of the Government Code is repealed.

~~16366.4. (a) Based on the criteria specified in Section 16366.3, the Legislature directs the state to assume administrative responsibility for the following federal block grants in the 1981–82 state fiscal year:~~

~~(1) Low-income home energy assistance.~~

~~(2) Social services (pursuant to Title XX of the Social Security Act).~~

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

~~(1) Preventive health and health services.~~

~~(2) Maternal and child health services.~~

~~(3) Primary care.~~

~~(4) Alcohol, drug abuse, and mental health services.~~

~~(5) Community services.~~

~~(6) Community development.~~

SEC. 32. Section 16366.5 of the Government Code is repealed.

~~16366.5. For the 1981–82 state fiscal year, block grants which the state chooses to accept and administer shall be disbursed in grant form and shall be governed by the provisions of this section. The provisions of this section, however, shall apply only to the amount retained in the block and not to the amount transferred into another block, as permitted by federal law. The Governor may transfer funds between block grants only in an amount authorized by the Legislature.~~

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

~~(b) For the Low-Income Energy Assistance Block Grant, the amount spent during the 1981–82 state fiscal year by the state and by service providers for program administration of all federal categorical and block grant programs shall not exceed the percentage levels of administrative costs incurred in the 1980–81 fiscal year which were approved by the Legislature and reflected in each service provider grant in effect on July 1, 1981. In no event shall these administrative costs exceed 5 percent.~~

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

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

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

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

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

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

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

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

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

(b) Departmental service contracts utilizing federal block grant funds shall be exempt from approval by the Department of Finance and the State Department of General Services prior to their execution. Instead, the proper state fiscal controls over federal block grant funds shall be insured by all of the following provisions:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(b) All departments affected shall prepare a separate summary of programs, funding levels, contracting progress, and clients affected by funding reductions during the 1981–82 state fiscal year and separately identify the transition programs for which they would have any policy or administrative responsibilities no later than October 15, 1981. The summary of the 1981–82 state fiscal year funding reductions shall be submitted to the Joint Legislative Budget Committee and to the fiscal committee of each house.~~

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

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

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

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

~~(a) For federal fiscal year 1998, up to 7.3 percent of the state's total federal allocation for the Low-Income Home Energy Assistance Program shall be retained by the Department of Community Services and Development for purposes of overall planning and administration. The department shall spend at least 2.3 percent of this 7.3 percent on activities to improve the administrative efficiency of the program. At least 2.7 percent of the state's total federal allocation of the Low-Income Home Energy Assistance Program shall be allocated to local service providers for purposes of planning and administration.~~

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

~~Beginning in federal fiscal year 2000, up to 5 percent of the state's total federal allocation for the Low-Income Home Energy~~

~~Assistance Program shall be retained by the Department of Community Services and Development for purposes of overall planning and administration. At least~~

(a) Up to 5 percent of the state's total federal allocation for the Low-Income Home Energy Assistance Program shall be allocated to local service providers for purposes of planning and administration.

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

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

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

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

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

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

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

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

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

~~(B) An amount equal to 60 percent of the state median income, except that no household may be excluded from eligibility solely~~

~~on the basis of household income if that income is less than 110 percent of the poverty level for this state, but priority may be given to those households with the highest home energy costs or needs in relation to household income.~~

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

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

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

(1) Proof of utility shutoff notice.

(2) Proof of energy termination.

(3) Insufficient funds to establish a new energy account.

(4) Insufficient funds to pay a delinquent utility bill.

(5) Insufficient funds to pay the cost of space heating devices where no alternative source of space heating is reasonably available.

(6) Insufficient funds to pay for essential firewood, oil, or propane.

(7) Insufficient funds to pay for the cost of emergency repairs to heating and cooling units, the emergency replacement of heating and cooling units, or both.

(8) Insufficient funds to pay energy costs for a household where a household member's medical condition requires use of life support or climate and temperature control systems.

(9) Other conditions that may be included in the state plan.

~~The~~

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

~~The~~

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

~~The Department of Community Services and Development~~

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

~~(f)~~

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

~~(g)~~

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

~~(h)~~

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

~~(i)~~

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

~~(j)~~

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

~~(k) By June 30, 1998, the Department of Community Services and Development shall submit a plan to the Health and Welfare Agency to reduce state administrative costs by January 1, 2000, to no more than 5 percent of the total federal allocation for the Low-Income Home Energy Assistance Program. This plan shall be developed in consultation with the local service providers~~

~~committee and shall include measurable objectives, milestones, and timelines.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) An amount of not less than 15 percent and up to the maximum allowed by federal law of the total federal allocation shall be allocated for weatherization services for eligible individuals. For each program year, to the extent that the state is eligible, the department shall apply to the appropriate federal agencies for any waivers that may be necessary to ensure that the

amount available for the purposes of this subdivision will be the maximum amount allowable under federal law. For the purposes of this subdivision, weatherization shall include all energy conservation measures and energy efficient appliances that are cost effective and improve energy efficiency. The department shall allocate 5 percent of the weatherization program allocation to local service providers for outreach and related activities.

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

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

(A) Proof of utility shutoff notice.

(B) Proof of energy termination.

(C) Insufficient funds to establish a new energy account.

(D) Insufficient funds to pay a delinquent utility bill.

(E) Insufficient funds to pay the cost of space heating devices where no alternative source of space heating is reasonably available.

(F) Insufficient funds to pay for essential firewood, oil, or propane.

(G) Insufficient funds to pay for the cost of emergency repairs to heating and cooling units, the emergency replacement of heating and cooling units, or both.

(H) Insufficient funds to pay energy costs for a household where a household member's medical condition requires use of life support or climate and temperature control systems.

(I) Other conditions that may be included in the state plan.

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

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

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

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

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

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

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

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

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

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

16367.6. (a) The Department of ~~Economic Opportunity~~ *Energy* shall receive and administer all state and federal funds which are allocated for programs to provide energy assistance to qualified low-income individuals only, except for those funds which are allocated to, and distributed by, the California Energy Extension Service.

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

The Department of ~~Economic Opportunity~~ *Energy* shall have the discretion to adjust payments to the energy supplier or the individual or to make direct payments to the individual for payment to an energy supplier in special or unique circumstances not otherwise provided for in this section.

SEC. 40. Section 16367.61 of the Government Code is repealed.

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

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

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

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

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

SEC. 41. Section 16367.65 of the Government Code is repealed.

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

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

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

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

SEC. 42. Section 16367.7 of the Government Code is repealed.

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

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

SEC. 43. Section 16367.8 of the Government Code is repealed.

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

SEC. 44. Section 66645 of the Government Code is amended to read:

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

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

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

(d) Whenever the ~~State Energy Resources Conservation and Development Commission~~ *California Energy Board within the*

Department of Energy exercises its siting authority and undertakes proceedings pursuant to the provisions of Chapter 6 (commencing with Section 25500) of Division 15 of the Public Resources Code with respect to any thermal *or solar nonthermal* powerplant *of 50 megawatts or greater* or transmission line to be located, in whole or in part, within the Suisun Marsh or the area of jurisdiction of the commission, the commission shall participate in those proceedings and shall receive from the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* any notice of intention to file an application for certification of a site and related facilities within the Suisun Marsh or the area of jurisdiction of the commission. The commission shall analyze ~~each notice of intention~~ *an application for certification* and, prior to commencement of the hearings conducted pursuant to Section ~~25513~~ *25221* of the Public Resources Code, shall forward to the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* a written report on the suitability of the proposed site and related facilities specified in that notice. The commission's report shall contain a consideration of, and findings regarding, the following:

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

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

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

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

SEC. 45. Section 66646 of the Government Code is amended to read:

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

SEC. 46. Section 3805.5 of the Public Resources Code is repealed.

~~3805.5. "Commission" means the State Energy Resources Conservation and Development Commission.~~

SEC. 47. Section 3806.5 is added to the Public Resources Code, to read:

3806.5. "Department" means the Department of Energy.

SEC. 48. Section 3808 of the Public Resources Code is amended to read:

3808. "Geothermal resources" means geothermal resources designated by the United States Geological Survey or the Department of Conservation, or by both.

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

SEC. 49. Section 3810 of the Public Resources Code is amended to read:

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

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

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

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

(b) A "royalty agreement" is an award repayment or program reimbursement agreement and is subject to all of the following conditions:

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

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

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

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

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

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

SEC. 50. Section 3822 of the Public Resources Code is amended to read:

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

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

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

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

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

(f) (1) Any loan made under this section shall:

(A) Not exceed 80 percent of the local jurisdiction's costs.

(B) Be repaid together with interest within 20 years from receipt of the loan funds.

(2) Notwithstanding any other provision of law, the ~~commission~~ *department* shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans

based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account.

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

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

SEC. 51. Section 3822.1 of the Public Resources Code is amended to read:

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

SEC. 52. Section 3822.2 of the Public Resources Code is amended to read:

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

(b) The total of all amounts expended pursuant to this section shall not exceed 5 percent of all funds available under Section

3822 or one hundred thousand dollars ($100,000), whichever amount is less.

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

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

(2) The project definition and likelihood of success.

(3) Local needs and potential project benefits.

SEC. 53. Section 4799.16 of the Public Resources Code is amended to read:

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

SEC. 54. Section 6815.2 of the Public Resources Code is amended to read:

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

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

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

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

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

~~The~~

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

SEC. 55. Section 14584 of the Public Resources Code is amended to read:

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

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

SEC. 56. Section 21080 of the Public Resources Code is amended to read:

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

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

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

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

(3) Projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor pursuant to Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code.

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

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

(6) Actions undertaken by a public agency relating to any ~~thermal~~ powerplant site or facility *of 50 megawatts or greater*, including the expenditure, obligation, or encumbrance of funds by a public agency for planning, engineering, or design purposes, or for the conditional sale or purchase of equipment, fuel, water (except groundwater), steam, or power for a ~~thermal~~ powerplant, if the powerplant site and related facility will be the subject of an environmental impact report, negative declaration, or other

document, prepared pursuant to a regulatory program certified pursuant to Section 21080.5, which will be prepared by the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy,* by the Public Utilities Commission, or by the city or county in which the powerplant and related facility would be located if the environmental impact report, negative declaration, or document includes the environmental impact, if any, of the action described in this paragraph.

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

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

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

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

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

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

(13) A project for the development of a regional transportation improvement program, the state transportation improvement

program, or a congestion management program prepared pursuant to Section 65089 of the Government Code.

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

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

(16) The selection, credit, and transfer of emission credits by the South Coast Air Quality Management District pursuant to Section 40440.14 of the Health and Safety Code, until the repeal of that section on January 1, 2012, or a later date.

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

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

(2) An initial study identifies potentially significant effects on the environment, but (A) revisions in the project plans or proposals made by, or agreed to by, the applicant before the proposed negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effect on the environment would occur, and (B) there is no substantial evidence, in light of the whole record before the lead agency, that the project, as revised, may have a significant effect on the environment.

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

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

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

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

(g) ~~Nothing in this section shall~~ *This section does not* preclude a project applicant or any other person from challenging, in an administrative or judicial proceeding, the legality of a condition of project approval imposed by the lead agency. If, however, any condition of project approval set aside by either an administrative body or court was necessary to avoid or lessen the likelihood of the occurrence of a significant effect on the environment, the lead agency's approval of the negative declaration and project shall be invalid and a new environmental review process shall be conducted before the project can be reapproved, unless the lead agency substitutes a new condition that the lead agency finds, after holding a public hearing on the matter, is equivalent to, or more effective in, lessening or avoiding significant effects on the environment and that does not cause any potentially significant effect on the environment.

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

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

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

(c) In calculating the cost effectiveness of energy resources, including conservation and load management options, the ~~commission~~ *department* shall include a value for any costs and benefits to the environment, including air quality. The ~~commission~~ *department* shall ensure that any values it develops pursuant to this section are consistent with values developed by the Public Utilities ~~Commission~~ *department* pursuant to Section 701.1 of the Public Utilities Code. However, if the ~~commission~~ *department* determines that a value developed pursuant to this subdivision is not consistent with a value developed by the Public Utilities Commission pursuant to subdivision (c) of Section 701.1 of the Public Utilities Code, the ~~commission~~ *department* may nonetheless use this value if, in the appropriate record of its proceedings, it states its reasons for using the value it has selected.

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

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

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

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

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

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

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

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

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

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

25104. "Commission" *or "board"* means the ~~State Energy Resources Conservation and Development Commission~~ *California Energy Board. References to the State Energy Resources Conservation and Development Commission or the California Energy Commission in other laws shall be to the California Energy Board.*

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

25104.1. (a) "Department" means the Department of Energy.

(b) "Office" means the Office of Energy Market Oversight.

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

25104.2. "Secretary" means the Secretary of Energy.

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

25106. "Adviser" means the ~~administrative~~ *public* adviser employed by the ~~commission~~ *department* pursuant to Section ~~25217~~ *25217.1*.

SEC. 63. Section 25107 of the Public Resources Code is amended to read:

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

SEC. 64. Section 25110 of the Public Resources Code is amended to read:

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

SEC. 65. Section 25112 of the Public Resources Code is amended to read:

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

SEC. 66. Section 25113 of the Public Resources Code is repealed.

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

SEC. 67. Section 25120 of the Public Resources Code is repealed.

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

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

SEC. 68. Section 25120 is added to the Public Resources Code, to read:

25120. "Powerplant" means a stationary or floating electrical generating facility using any thermal source of energy or solar energy, with a generating capacity of 50 megawatts or more, and any facilities appurtenant to the generating facility. Exploratory, development, and production wells, resource transmission lines, and other related facilities used in connection with a geothermal exploratory project or a geothermal field development project are not appurtenant facilities for the purposes of this division.

SEC. 69. Section 25123 of the Public Resources Code is amended to read:

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

SEC. 70. The heading of Chapter 3 (commencing with Section 25200) of Division 15 of the Public Resources Code is amended to read:

Chapter 3. ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy*

SEC. 71. Section 25200 of the Public Resources Code is repealed.

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

SEC. 72. Section 25200 is added to the Public Resources Code, to read:

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

(b) The Secretary of Energy shall serve as the principal advisor to the Governor on, and shall assist the Governor in establishing, major policy and program matters on electric power and other sources of energy as related to renewable energy, energy

conservation, environmental protection, and other goals and policies established by this division.

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

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

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

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

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

SEC. 73. Section 25201 of the Public Resources Code is repealed.

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

SEC. 74. Section 25201 is added to the Public Resources Code, to read:

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

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

(2) Electricity Oversight Board.

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

SEC. 75. Section 25202 of the Public Resources Code is repealed.

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

SEC. 76. Section 25202 is added to the Public Resources Code, to read:

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

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

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

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

(d) On and after January 1, 2013, all functions of the Department of Community Services and Development related to the receipt and administration of federal energy-related programs including the Low-Income Home Energy Assistance Program Block Grant, provided for pursuant to the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.), and the United States Department of Energy Weatherization Assistance Program, provided for pursuant to Title IV of the

Energy Conservation and Production Act (Public Law 94-385, as amended) and pursuant to the United States Housing and Urban Development Residential Lead-Based Paint Hazard Reduction Act of 1992 (Public Law 102-550, as amended), and the receipt and administration of the community service block grants provided pursuant to Subtitle B of Title VI of Public Law 97-35, as amended, and administered pursuant to Chapter 9 (commencing with Section 12725) of Part 2 of Division 3 of Title 2 of the Government Code.

SEC. 77. Section 25203 of the Public Resources Code is repealed.

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

SEC. 78. Section 25203 is added to the Public Resources Code, to read:

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

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

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

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

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

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

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

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

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

(4) The Secretary of the Natural Resources Agency.

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

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

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

(3) On or before January 31, 2011, the Governor shall appoint the initial members of the board. Every appointment made by the Governor to the board shall be subject to the advice and consent of a majority of the members elected to the Senate.

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

(5) Each board member holding office on December 31, 2010, shall continue to serve until his or her successor is appointed and has been qualified to hold office. The order of replacement shall be determined by lot.

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

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

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

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

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

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

SEC. 79. Section 25204 of the Public Resources Code is repealed.

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

SEC. 80. Section 25204 is added to the Public Resources Code, to read:

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

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

(c) An action by or against the entities listed in subdivision (a) of Section 25201 or Section 25202, or any of their predecessors shall not abate but, except as provided in Section 25227.3, shall

continue in the name of the Department of Energy and the department shall be substituted for the entities and any of their predecessors by the court where the action is pending. The substitution shall not in any way affect the rights of the parties to the action.

SEC. 81. Section 25205 of the Public Resources Code is amended to read:

25205. (a) ~~No~~ *A* person shall *not* be a member of the ~~commission~~ *board* who, during the two years prior to appointment on the ~~commission~~ *board*, received any substantial portion of his or her income directly or indirectly from any electric utility, or who engages in sale or manufacture of any major component of any facility *subject to licensing by the board*. A member of the ~~commission~~ *board* shall not be employed by any electric utility, applicant, or, within two years after he or she ceases to be a member of the commission, by any person who engages in the sale or manufacture of any major component of any facility *subject to licensing by the board*.

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

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

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

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

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

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

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

SEC. 82. Section 25205.5 is added to the Public Resources Code, to read:

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

SEC. 83. Section 25206 of the Public Resources Code is repealed.

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

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

SEC. 84. Section 25206 is added to the Public Resources Code, to read:

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

SEC. 85. Section 25207 of the Public Resources Code is amended to read:

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

Each member of the ~~commission~~ *board* shall receive the necessary traveling and other expenses incurred in the performance of his official duties. When necessary, the members of the

~~commission~~ *board* and ~~its~~ *the* employees *of the department* may travel within or without the state.

SEC. 86. Section 25207.5 is added to the Public Resources Code, to read:

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

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

SEC. 87. Section 25208 is added to the Public Resources Code, to read:

25208. (a) It is the intent of the Legislature to transfer to the Department of Energy, the certification of an electric transmission line, plant, or system, or any extension thereof.

(b) For the purposes of this section, an electric line, plant, or system, or extension thereof, shall be considered "electric transmission" for either of the following:

(1) It has a maximum rated voltage of 200 kilovolts or greater.

(2) It has a maximum rated voltage of 100 kilovolts or greater and certification is sought following inclusion of that facility as an element of a final transmission expansion plan for the Independent System Operator.

(c) The department, in consultation with the Public Utilities Commission and the Independent System Operator, shall prepare, and submit to the Governor and the Legislature on or before January 1, 2011, a strategic plan that identifies administrative

and statutory measures that, preserving environmental protections, public participation, and continuity of existing electric transmission line siting processes, would improve the siting and licensing process for electric transmission lines. The strategic plan shall include, but is not limited to, all of the following:

(1) An examination of potential process efficiencies associated with required hearings, site visits, and documents.

(2) A review of the impacts on both process efficiency and public participation of restrictions on communications between applicants, the public, and staff or decisionmakers.

(3) An assessment of the means for improving coordination with the licensing activities of local jurisdictions and participation by other state agencies.

(4) An assessment of organizational structure issues including the adequacy of the amounts and organization of current technical and legal resources.

(5) Recommendations for administrative and statutory measures to improve the siting and licensing process, including recommendations for the option of siting transmission lines not owned by an electrical corporation.

(6) Recommendations for administering existing electric transmission siting applications to ensure continuity and efficiencies.

(7) The provision for the transfer of employees serving in the state civil service, other than temporary employees, who are engaged in the performance of a function transferred to the department or engaged in the administration of a law, the administration of which is transferred to the agency. The status, positions, and rights of those persons shall not be affected by their transfer and shall continue to be retained by them pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5), except as to positions the duties of which are vested in a position exempt from civil service.

(8) The provision for the transfer or other disposition of the personnel records and property affected by any reorganization.

(9) Timelines for implementing recommendations.

(d) All responsibilities of the Public Utilities Commission that are transferred pursuant to subdivision (b) of Section 1001 of the Public Utilities Code shall be transferred in an expeditious and orderly manner to the Department of Energy or the California

Energy Board, as the case may be. Resources, including personnel, associated with responsibilities transferred to the department shall also be transferred to the department in an expeditious manner. The Secretary of Energy may allocate the responsibilities transferred to the department by the Public Utilities Commission among the divisions of the department.

(e) Applications on file before the Public Utilities Commission on or before January 1, 2011, may proceed to decision before the Public Utilities Commission and the procedural rules and substantive regulations of that agency shall apply until a final decision on the application.

(f) On and after January 1, 2011, all rules and orders in effect with respect to the requirements of an application for certificate under Section 1001 of the Public Utilities Code, including, but not limited to, General Order 131-D of the Public Utilities Commission, shall remain in effect and shall also be considered a rule of the department. The secretary shall cause timely publication of all rules that may be enumerated to effect a logical integration with other rules of the department. Any subsequent modification of these rules as they apply to the jurisdiction of the department shall be carried out in conformance with the procedures of the department.

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

SEC. 88. Section 25209 of the Public Resources Code is amended to read:

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

SEC. 89. Section 25210 of the Public Resources Code is amended to read:

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

SEC. 90. Section 25211 of the Public Resources Code is amended to read:

25211. The ~~commission~~ *board* may appoint a committee of not less than two members of the ~~commission~~ *board* to carry on investigations, inquiries, or hearings ~~which~~ *that* the ~~commission~~ *board* has power to undertake or to hold. At least one member of the ~~committee~~ *board* shall attend all public hearings or other proceedings held pursuant to Chapter 6 (commencing with Section 25500), and all public hearings in biennial report proceedings and rulemaking proceedings, except that, upon agreement of all parties to a proceeding who are present at the hearing or proceeding, the committee may authorize a hearing officer to continue to take evidence in the temporary absence of a ~~commission~~ *board* member. Every order made by the committee pursuant to the inquiry, investigation, or hearing, when approved or confirmed by the ~~commission~~ *board* and ordered filed in its office, shall be the order of the ~~commission~~ *board*.

SEC. 91. Section 25212 of the Public Resources Code is amended to read:

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

SEC. 92. Section 25213 of the Public Resources Code is amended to read:

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

SEC. 93. Section 25214 of the Public Resources Code is amended to read:

25214. The ~~commission~~ *department and the board* shall maintain its headquarters in the County of Sacramento ~~and may establish branch offices in such parts of the state as the commission deems necessary~~. The ~~commission~~ *board* shall hold meetings at

~~such~~ times and ~~at such~~ places as shall be determined by it. All meetings and hearings of the ~~commission~~ *board* shall be open to the public, and opportunity to be heard with respect to the subject of the hearings shall be afforded to any person. Upon request, an interested party may be granted reasonable opportunity to examine any witness testifying at the hearing. ~~The first meeting of the commission shall be held within 30 days after the confirmation of the last member of the commission pursuant to Section 25204. The Governor shall designate the time and place for the first meeting of the commission.~~

SEC. 94. Section 25215 of the Public Resources Code is amended to read:

25215. ~~Any~~ *A* member of the ~~commission~~ *board* may be removed from office by the Legislature, by concurrent resolution adopted by a majority vote of all members elected to each house, for dereliction of duty or corruption or incompetency.

SEC. 95. Section 25216 of the Public Resources Code is amended to read:

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

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

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

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

SEC. 96. Section 25216.3 of the Public Resources Code is amended to read:

25216.3. (a) The ~~commission~~ *department* shall compile relevant local, regional, state, and federal land use, public safety, environmental, and other standards to be met in designing, siting, and operating facilities in this state; except as provided in subdivision (d) of Section 25402, adopt standards, except for air and water quality, to be met in designing or operating facilities to safeguard public health and safety, which may be different from or more stringent than those adopted by local, regional, or other state agencies, or by any federal agency if permitted by federal law; and monitor compliance and ensure that all facilities are operated in accordance with this division.

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

SEC. 97. Section 25216.5 of the Public Resources Code is amended to read:

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

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

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

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

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

SEC. 98. Section 25217 of the Public Resources Code is repealed.

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

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

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

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

SEC. 99. Section 25217.1 of the Public Resources Code is amended to read:

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

SEC. 100. Section 25217.5 of the Public Resources Code is repealed.

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

SEC. 101. Section 25218 of the Public Resources Code is amended to read:

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

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

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

(c) Be sued and sue.

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

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

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

SEC. 102. Section 25218.5 of the Public Resources Code is amended to read:

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

SEC. 103. Section 25219 of the Public Resources Code is repealed.

~~25219. As to any matter involving the federal government, its departments or agencies, which is within the scope of the power~~

~~and duties of the commission, the commission may represent its interest or the interest of any county, city, state agency, or public district upon its request, and to that end may correspond, confer, and cooperate with the federal government, its departments or agencies.~~

SEC. 104. Section 25219 is added to the Public Resources Code, to read:

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

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

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

(c) The Attorney General.

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

SEC. 105. Section 25220 of the Public Resources Code is amended to read:

25220. *(a) As to any matter involving the federal government, or departments or agencies, that is within the scope of the power and duties of the department, the department may represent its interest or interest of any county, city, state agency, or public district upon its request, and to that end may correspond, confer, and cooperate with the federal government, or departments or agencies.*

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

SEC. 106. Section 25221 of the Public Resources Code is amended to read:

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

SEC. 107. Section 25222 of the Public Resources Code is amended to read:

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

SEC. 108. Section 25223 of the Public Resources Code is amended to read:

25223. ~~The commission~~ *(a) Except as provided in subdivision (b), the department and the board* shall make available any information filed or submitted pursuant to this division under the provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1 of the Government Code; provided, however, that the commission shall keep confidential any information submitted to the Division of Oil and Gas of the Department of Conservation that the division determines, pursuant to Section 3752, to be proprietary.

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

SEC. 109. Section 25224 of the Public Resources Code is amended to read:

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

SEC. 110. Section 25225 of the Public Resources Code is amended to read:

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

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

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

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

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

~~(A)~~

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

~~(B)~~

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

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

SEC. 111. Section 25226 of the Public Resources Code is amended to read:

25226. (a) The Energy Technologies Research, Development, and Demonstration Account established under former Section

25683 is hereby continued in existence, in the General Fund, to be administered by the ~~commission~~ *department* for the purpose of carrying out Chapter 7.3 (commencing with Section 25630) and Chapter 7.5 (commencing with Section 25650).

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

SEC. 112. Chapter 3.5 (commencing with Section 25227) is added to Division 15 of the Public Resources Code, to read:

CHAPTER 3.5. OFFICE OF ENERGY MARKET OVERSIGHT

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

(a) Oversee the Independent System Operator.

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

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

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

(e) Arrange to obtain all transactional data from a "public utility" within the meaning of Section 1001 of the Public Utilities Code or a district established by the Municipal Utility District Act (Division 6 (commencing with Section 11501) of the Public Utilities Code) for transactions through the California Independent System Operator. The office shall review the data quarterly for unjust or

unreasonable pricing or practices that are not subject to the jurisdiction of the Federal Energy Regulatory Commission.

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

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

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

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

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

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

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

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

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

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

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

(5) Open meeting standards and meeting notice requirements.

(6) Appointment of advisory representatives representing state interests.

(7) Public access to corporate records.

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

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

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

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

(b) Sue and be sued.

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

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

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

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

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

(h) Administer oaths.

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

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

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

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

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

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

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

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

(b) All officers and employees of the Electricity Oversight Board who, on January 1, 2010, are serving in the state civil service, other than as temporary employees, shall be transferred to the Department of Energy pursuant to Section 19050.9 of the Government Code. The status, position, and rights of any officer

or employee of the board shall not be affected by the transfer and shall be retained by the person as an officer or employee of the department, as the case may be, pursuant to the State Civil Service Act (Part 2 (commencing with Section 18500) of Division 5 of Title 2 of the Government Code), except as to a position that is exempt from civil service.

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

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

SEC. 113. Section 25301 of the Public Resources Code is amended to read:

25301. (a) At least every two years, the ~~commission~~ *department* shall conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The ~~commission~~ *department* shall use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. To perform these assessments and forecasts, the ~~commission~~ *department* may require submission of demand forecasts, resource plans, market assessments, and related outlooks from electric and natural gas utilities, transportation fuel and technology suppliers, and other market participants. These assessments and forecasts shall be done in consultation with *the Independent System Operator and* the appropriate state and federal agencies including, but not limited to, the Public Utilities Commission, the ~~Office~~ *Division* of Ratepayer Advocates, the Air Resources Board, ~~the Electricity Oversight Board, the Independent System Operator,~~ the Department of Water Resources, ~~the California Consumer Power and Conservation Financing Authority,~~ the *State* Department of Transportation, and the Department of Motor Vehicles.

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

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

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

(3) Analyze and develop energy policies.

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

(5) Facilitate efficient and reliable energy markets.

SEC. 114. Section 25302 of the Public Resources Code is amended to read:

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

(1) Electricity and natural gas markets.

(2) Transportation fuels, technologies, and infrastructure.

(3) Public interest energy strategies.

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

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

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

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

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

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

SEC. 115. Section 25303 of the Public Resources Code is amended to read:

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

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

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

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

(4) Evaluation of potential impacts of electricity and natural gas supply, demand, and infrastructure and resource additions on the

electricity and natural gas systems, public health and safety, the economy, resources, and the environment.

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

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

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

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

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

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

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

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

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

(A) Generation facility efficiency.

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

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

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

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

SEC. 116. Section 25304 of the Public Resources Code is amended to read:

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

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

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

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

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

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

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

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

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

SEC. 117. Section 25305 of the Public Resources Code is amended to read:

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

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

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

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

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

SEC. 118. Section 25305.5 of the Public Resources Code is amended to read:

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

SEC. 119. Section 25306 of the Public Resources Code is amended to read:

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

SEC. 120. Section 25310 of the Public Resources Code is amended to read:

25310. On or before November 1, 2007, and by November 1 of every third year thereafter, the ~~commission~~ *department* in consultation with the Public Utilities Commission and local publicly owned electric utilities, in a public process that allows input from other stakeholders, shall develop a statewide estimate of all potentially achievable cost-effective electricity and natural gas efficiency savings and establish targets for statewide annual energy efficiency savings and demand reduction for the next 10-year period. The ~~commission~~ *department* shall base its estimate at least in part on information developed pursuant to Sections 454.55, 454.56, 715, 9615, and 9615.5 of the Public Utilities Code. The ~~commission~~ *department* shall, for each electrical corporation and each gas corporation, include in the integrated energy policy report, a comparison of the public utility's annual targets established pursuant to Sections 454.55 and 454.56, and the public utility's actual energy efficiency savings and demand reductions.

SEC. 121. Section 25320 of the Public Resources Code is amended to read:

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

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

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

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

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

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

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

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

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

SEC. 122. Section 25321 of the Public Resources Code is amended to read:

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

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

(1) The civil penalty shall not be less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) for each

category of data the person did not provide and for each day the violation has existed and continues to exist.

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

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

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

SEC. 123. Section 25322 of the Public Resources Code is amended to read:

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

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

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

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

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

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

(3) Any confidential information pertinent to the responsibilities of the ~~commission~~ *department* specified in this chapter that is

obtained by another state agency, or the California Independent System Operator or its successor, shall be available to the ~~commission~~ *department* and shall be treated in a confidential manner.

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 124. Section 25323 of the Public Resources Code is amended to read:

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

SEC. 125. Section 25324 of the Public Resources Code is amended to read:

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

SEC. 126. Section 25331 of the Public Resources Code is amended to read:

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

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

SEC. 127. Section 25332 of the Public Resources Code is amended to read:

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

SEC. 128. Section 25333 of the Public Resources Code is amended to read:

25333. (a) In developing a strategic plan pursuant to Section 25324 or considering an application for designation pursuant to this chapter, the ~~commission~~ *department* shall confer with cities and counties, federal agencies, and California Native American tribes to identify appropriate areas within their jurisdictions that may be suitable for a transmission corridor zone. The ~~commission~~ *department* shall, to the extent feasible, coordinate efforts to identify long-term transmission needs of the state with the land use plans of cities, counties, federal agencies, and California Native American tribes.

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

SEC. 129. Section 25334 of the Public Resources Code is amended to read:

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

(b) As soon as practicable after the receipt of an application or upon ~~its own~~ *the board's* motion for designation of a transmission corridor zone, the ~~commission~~ *department* shall notify cities, counties, state and federal agencies, and California Native American tribes in whose jurisdictions the proposed transmission corridor zone would be located regarding the proposed transmission corridor zone and the objectives of the most recent strategic plan for the state's electric transmission grid. The ~~commission's~~ *department's* notice shall solicit information from, and the ~~commission~~ *department* shall confer with, all interested cities, counties, state and federal agencies, and California Native American tribes regarding their land use plans, existing land uses, and other factors in which they have expertise or interest with respect to the proposed transmission corridor zone. The ~~commission~~ *department* shall provide any interested city, county, state or federal agency, California Native American tribe, or member of the public, including any property owner within the proposed transmission corridor zone, ample opportunity to participate in the ~~commission's~~ *board's* review of a proposed transmission corridor zone.

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

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

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

SEC. 130. Section 25335 of the Public Resources Code is amended to read:

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

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

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

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

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

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

SEC. 131. Section 25336 of the Public Resources Code is amended to read:

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

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

SEC. 132. Section 25337 of the Public Resources Code is amended to read:

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

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

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

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

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

SEC. 133. Section 25338 of the Public Resources Code is amended to read:

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

SEC. 134. Section 25339 of the Public Resources Code is amended to read:

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

SEC. 135. Section 25340 of the Public Resources Code is amended to read:

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

SEC. 136. Section 25341 of the Public Resources Code is amended to read:

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

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

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

SEC. 137. Section 25354 of the Public Resources Code is amended to read:

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

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

(2) Major marketers shall report on petroleum product receipts and the sources of these receipts, inventories of finished petroleum products and blendstocks, by type, distributions through branded

and unbranded distribution networks, and exports of finished petroleum products and blendstocks, by type, from the state.

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

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

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

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

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

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

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

(d) In addition to the data required under subdivision (a), each integrated oil refiner ~~(produces~~ *(who produces*, refines, transports, and markets in interstate commerce) who supplies more than 500 branded retail outlets in California shall submit to the ~~commission~~ *department* an annual industry forecast for Petroleum Administration for Defense, District V (covering *Alaska*, Arizona, *California, Hawaii*, Nevada, ~~Washington, Oregon, California,~~

~~Alaska, and Hawaii)~~ *Oregon, and Washington)*. The forecast shall include the information to be submitted under subdivision (a), and shall be submitted by March 15 of each year. The ~~commission~~ *department* may require California-specific forecasts. However, those forecasts shall be required only if the ~~commission~~ *department* finds them necessary to carry out its responsibilities.

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

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

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

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

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

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

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

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

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

(i) (1) Beginning the first week after the effective date of the act that added this subdivision, and each week thereafter, an oil refiner, oil producer, petroleum product transporter, petroleum product marketer, petroleum product pipeline operator, and terminal operator, as designated by the ~~commission~~ *department*, shall submit a report in the form and extent as the ~~commission~~ *department* prescribes pursuant to this section. The ~~commission~~ *department* may determine the form and extent necessary by order or by regulation.

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

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

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

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

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

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

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

SEC. 138. Section 25356 of the Public Resources Code is amended to read:

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

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

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

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

(4) The prices, with particular emphasis on retail motor fuel prices, including sales to unbranded retail markets, and any significant changes in prices charged by the petroleum industry for petroleum or petroleum products sold in California and the reasons for those changes.

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

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

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

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

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

SEC. 139. Section 25357 of the Public Resources Code is amended to read:

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

SEC. 140. Section 25358 of the Public Resources Code is amended to read:

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

(b) The ~~commission~~ *department* shall prepare a biennial assessment of the information provided pursuant to this chapter and shall include its assessment in the biennial fuels report prepared pursuant to Section 25310.

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

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

SEC. 141. Section 25362 of the Public Resources Code is amended to read:

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

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

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

SEC. 142. Section 25364 of the Public Resources Code is amended to read:

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

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

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

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

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

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

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

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

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

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

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

SEC. 143. Section 25366 of the Public Resources Code is amended to read:

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

SEC. 144. Section 25400 of the Public Resources Code is amended to read:

25400. The ~~commission~~ *department* shall conduct an ongoing assessment of the opportunities and constraints presented by all forms of energy. The ~~commission~~ *department* shall encourage the balanced use of all sources of energy to meet the state's needs and shall seek to avoid possible undesirable consequences of reliance on a single source of energy.

SEC. 145. Section 25401 of the Public Resources Code is amended to read:

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

~~(a)~~

(1) Pricing of electricity and other forms of energy.

~~(b)~~

(2) Improved building design and insulation.

~~(c)~~

(3) Restriction of promotional activities designed to increase the use of electrical energy by consumers.

~~(d)~~

(4) Improved appliance efficiency.

~~(e)~~

(5) Advances in power generation and transmission technology.

~~(f)~~

(6) Comparisons in the efficiencies of alternative methods of energy utilization.

~~The commission~~

(b) The department shall survey pursuant to this section all forms of energy on which to base its recommendations to the Governor and Legislature for elimination of waste or increases in efficiency for sources or uses of energy. The ~~commission~~ *department* shall transmit to the Governor and the Legislature, as part of the biennial report specified in Section ~~25309,~~ *25302,* recommendations for state policy and actions for the orderly development of all potential sources of energy to meet the state's

needs, including, but not limited to, fossil fuels and solar, nuclear, and geothermal energy resources, and to reduce wasteful and inefficient uses of energy.

SEC. 146. Section 25401.2 of the Public Resources Code is amended to read:

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

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

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

SEC. 147. Section 25401.5 of the Public Resources Code is amended to read:

25401.5. For the purpose of reducing electrical and natural gas energy consumption, the ~~commission~~ *department* may develop and disseminate measures that would enhance energy efficiency for single-family residential dwellings that were built prior to the development of the current energy efficiency standards. The measures, if developed and disseminated, shall provide a homeowner with information to improve the energy efficiency of a single-family residential dwelling. The ~~commission~~ *department* may comply with this section by posting the measures on the ~~commission's~~ *department's* Internet Web site or by making the measures available to the public, upon request.

SEC. 148. Section 25401.6 of the Public Resources Code is amended to read:

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

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

SEC. 149. Section 25401.7 of the Public Resources Code is amended to read:

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

(a) A nonprofit organization.

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

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

SEC. 150. Section 25401.9 of the Public Resources Code is amended to read:

25401.9. (a) To the extent that funds are available, the ~~commission,~~ *board*, in consultation with the Department of Water Resources, shall adopt by regulation, after holding one or more public hearings, performance standards and labeling requirements for landscape irrigation equipment, including, but not limited to, irrigation controllers, moisture sensors, emission devices, and valves, for the purpose of reducing the wasteful, uneconomic, inefficient, or unnecessary consumption of energy or water.

(b) For the purposes of complying with subdivision (a), the ~~commission~~ *board* shall do all of the following:

(1) Adopt performance standards and labeling requirements for landscape irrigation controllers and moisture sensors on or before January 1, 2010.

(2) Consider the Irrigation Association's Smart Water Application Technology Program testing protocols when adopting performance standards for landscape irrigation equipment, including, but not limited to, irrigation controllers, moisture sensors, emission devices, and valves.

(3) Prepare and submit a report to the Legislature, on or before January 1, 2010, that sets forth on a proposed schedule for adopting performance standards and labeling requirements for emission devices and valves.

(c) On and after January 1, 2012, an irrigation controller or moisture sensor for landscape irrigation uses may not be sold or installed in the state unless the controller or sensor meets the performance standards and labeling requirements established pursuant to this section.

SEC. 151. Section 25402 of the Public Resources Code is amended to read:

25402. The ~~commission~~ *board, with the support from the department,* shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy, including the energy associated with the use of water:

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

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

(3) Water efficiency standards and water conservation design standards adopted pursuant to this subdivision and subdivision (b) shall be consistent with the legislative findings of this division to ensure and maintain a reliable supply of electrical energy and be equivalent to or superior to the performance, safety, and protection of life, health, and general welfare standards contained in Title 24 of the California Code of Regulations. The ~~commission~~ *board* shall consult with the members of the coordinating council as established in Section 18926 of the Health and Safety Code in the development of these standards.

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

(2) In order to increase public participation and improve the efficacy of the standards adopted pursuant to ~~subdivisions~~ *this subdivision and subdivision* (a) ~~and (b)~~, the ~~commission~~ *board* shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the ~~commission~~ *board* shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The ~~commission~~ *board* shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

(3) The standards adopted or revised pursuant to ~~subdivisions~~ *this subdivision and subdivision* (a) ~~and (b)~~ shall be cost-effective when taken in their entirety and when amortized over the economic life of the structure compared with historic practice. When determining cost-effectiveness, the ~~commission~~ *board* shall

consider the value of the water or energy saved, impact on product efficacy for the consumer, and the life cycle cost of complying with the standard. The ~~commission~~ *board* shall consider other relevant factors, as required by Sections 18930 and 18935 of the Health and Safety Code, including, but not limited to, the impact on housing costs, the total statewide costs and benefits of the standard over its lifetime, economic impact on California businesses, and alternative approaches and their associated costs.

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

In order to increase public participation and improve the efficacy of the standards adopted pursuant to this subdivision, the ~~commission~~ *board* shall, prior to publication of the notice of proposed action required by Section 18935 of the Health and Safety Code, involve parties who would be subject to the proposed regulations in public meetings regarding the proposed regulations. All potential affected parties shall be provided advance notice of these meetings and given an opportunity to provide written or oral comments. During these public meetings, the ~~commission~~ *board* shall receive and take into consideration input from all parties concerning the parties' design recommendations, cost considerations, and other factors that would affect consumers and California businesses of the proposed standard. The ~~commission~~

board shall take into consideration prior to the start of the notice of proposed action any input provided during these public meetings.

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

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

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

(4) Neither the ~~commission~~ *board* nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before June 30, 1985, prescribing minimum levels of operating efficiency or other energy conservation measures for any appliance, unless the ~~commission~~ *board* finds by a four-fifths vote that a decrease is of benefit to ratepayers, and that there is significant evidence of changed circumstances. Before January 1, 1986, the ~~commission~~ *board* shall not take any action to increase a standard prescribing minimum levels of operating efficiency for any appliance or adopt a new standard under paragraph (1). Before January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the ~~commission~~ *board* after consultation with manufacturers doing business in the state and appropriate trade or industry

associations on sales of appliances so that the ~~commission~~ *board* may study the effects of regulations on those sales. These informational requirements shall remain in effect until the information is received. The trade or industry association may submit sales information in an aggregated form in a manner that allows the ~~commission~~ *board* to carry out the purposes of the study. The ~~commission~~ *board and the department* shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The ~~commission~~ *board* shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. At least one year prior to the adoption or amendment of a standard for an appliance, the ~~commission~~ *board* shall notify the Legislature of its intent, and the justification to adopt or amend a standard for the appliance. Notwithstanding paragraph (3) and this paragraph, the ~~commission~~ *board* may do any of the following:

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

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

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

(D) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard that is readopted is not more stringent than the standard that was found to be defective or preempted.

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

(5) Notwithstanding paragraph (4), the ~~commission~~ *board* may adopt standards pursuant to ~~Commission~~ *the former State Energy*

Resources Conservation and Development Commission Order No. 84-0111-1, on or before June 30, 1985.

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

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

(e) The ~~commission~~ *board* shall do all of the following:

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

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

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

SEC. 152. Section 25402.1 of the Public Resources Code is amended to read:

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

(a) Develop a public domain computer program ~~which~~ *that* will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The ~~commission~~ *department* may charge a fee for the use of the program, which fee shall be based upon the actual cost of the program, including any computer costs.

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

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

(d) Conduct a pilot project of field testing of actual residential buildings to calibrate and identify potential needed changes in the modeling assumptions to increase the accuracy of the public domain computer program specified in subdivision (a) and to evaluate the impacts of the standards, including, but not limited to, the energy savings, cost effectiveness, and the effects on indoor air quality. The pilot project shall be conducted pursuant to a contract entered into by the ~~commission~~ *department*. The ~~commission~~ *department* shall consult with the participants designated pursuant to Section 9202 of the Public Utilities Code to seek funding and support for field monitoring in each public utility service territory, with the University of California to take advantage of its extensive building monitoring expertise, and with the California Building Industry Association to coordinate the involvement of builders and developers throughout the state. The pilot project shall include periodic public workshops to develop plans and review progress. The ~~commission~~ *department* shall prepare and submit a report to the Legislature on progress and initial findings not later than December 31, 1988, and a final report on the results of the pilot project on residential buildings not later than June 30, 1990. The report shall include recommendations regarding the need and feasibility of conducting further monitoring of actual residential and nonresidential buildings. The report shall also identify any revisions to the public domain computer program and energy conservation standards if the pilot project determines that revisions are appropriate.

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

(1) The standards for energy conservation established by the ~~commission~~ *board*.

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

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

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

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

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

(f) The ~~commission~~ *department* shall establish a continuing program of technical assistance to local building departments in the enforcement of subdivisions (a) and (b) of Section 25402 and this section. The program shall include the training of local officials in building technology and enforcement procedures related to energy conservation, and the development of complementary training programs conducted by local governments, educational institutions, and other public or private entities. The technical assistance program shall include the preparation and publication of forms and procedures for local building departments in performing the review of building plans and specifications. The ~~commission~~ *department* shall provide, on a contract basis, a review of building plans and specifications submitted by a local building department, and shall adopt a schedule of fees sufficient to repay the cost of those services.

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

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

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

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

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

(5) ~~No construction~~ *Construction* of ~~any~~ *a* state building shall *not* commence until the Department of General Services or the state agency that otherwise has jurisdiction over the property reviews the plans for the proposed building and certifies that the plans satisfy the minimum standards established pursuant to ~~subdivision (a) or (b) of~~ Chapter 2.8 (commencing with Section 15814.30) of Part 10b of Division 3 of Title 2 of the Government Code, Section 25402, and this section which are applicable to the building.

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

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

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

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

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

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

SEC. 153. Section 25402.2 of the Public Resources Code is amended to read:

25402.2. Any standard adopted by the ~~commission~~ *board* pursuant to Sections 25402 and 25402.1, which is a building standard as defined in Section 25488.5, shall be submitted to the State Building Standards Commission for approval pursuant to, and is governed by, the State Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code). Building standards adopted by the ~~commission~~ *board* and published in the State Building Standards Code shall be enforced as provided in Sections 25402 and 25402.1.

SEC. 154. Section 25402.3 of the Public Resources Code is amended to read:

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

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

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

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

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

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

SEC. 155. Section 25402.4 of the Public Resources Code is amended to read:

25402.4. The standards for nonresidential buildings prescribed by the ~~commission~~ *board* pursuant to subdivisions (a) and (b) of Section 25402 shall provide at least one option which uses passive or semipassive thermal systems, as defined in Section 25600, for meeting the prescribed energy use requirements. These systems may include, but are not limited to, the following construction techniques:

(a) Use of skylights or other daylighting techniques.

(b) Use of openable windows or other means of using outside air for space conditioning.

(c) Use of building orientation, to complement other passive or semipassive thermal systems.

(d) Use of thermal mass, of structural or nonstructural type, for storage of heat or cold, including, but not limited to, roof ponds and water walls.

SEC. 156. Section 25402.5 of the Public Resources Code is amended to read:

25402.5. (a) As used in this section, "lighting device" includes, but is not limited to, a lamp, luminaire, light fixture, lighting control, ballast, or any component of those devices.

(b) (1) The ~~commission~~ *board* shall consider both new and replacement, and both interior and exterior, lighting devices as lighting which is subject to subdivision (a) of Section 25402.

(2) The ~~commission~~ *board* shall include both indoor and outdoor lighting devices as appliances to be considered in prescribing

standards pursuant to paragraph (1) of subdivision (c) of Section 25402.

(3) The Legislature hereby finds and declares that paragraphs (1) and (2) are declarative of existing law.

(c) The ~~commission~~ *board* shall adopt efficiency standards for outdoor lighting. The standards shall be technologically feasible and cost-effective. As used in this subdivision, "outdoor lighting" refers to all electrical lighting that is not subject to standards adopted pursuant to Section 25402, and includes, but is not limited to, street lights, traffic lights, parking lot lighting, and billboard lighting. The ~~commission~~ *department and the board* shall consult with the Department of Transportation (CALTRANS) to ensure that outdoor lighting standards that affect CALTRANS are compatible with that department's policies and standards for safety and illumination levels on state highways.

SEC. 157. Section 25402.5.4 of the Public Resources Code is amended to read:

25402.5.4. (a) On or before December 31, 2008, the ~~commission~~ *board* shall adopt minimum energy efficiency standards for all general purpose lights on a schedule specified in the regulations. The regulations, in combination with other programs and activities affecting lighting use in the state, shall be structured to reduce average statewide electrical energy consumption by not less than 50 percent from the 2007 levels for indoor residential lighting and by not less than 25 percent from the 2007 levels for indoor commercial and outdoor lighting, by 2018.

(b) The ~~commission~~ *board* shall make recommendations to the Governor and the Legislature regarding how to continue reductions in electrical consumption for lighting beyond 2018.

(c) The ~~commission~~ *board* may establish programs to encourage the sale in this state of general purpose lights that meet or exceed the standards set forth in subdivision (a).

(d) (1) Except as provided in paragraph (2), the Department of General Services, and all other state agencies, as defined in Section 12200 of the Public Contract Code, in coordination with the ~~commission~~ *department*, shall cease purchasing general purpose lights that do not meet the standards adopted pursuant to subdivision (a), within two years of those standards being adopted.

(2) The Department of General Services, and all other state agencies, as defined in Section 12200 of the Public Contract Code, in coordination with the ~~commission~~ *department* shall cease purchasing general purpose lights with an appearance that is historically appropriate for the facilities in which the lights are being used, and that do not meet the standards adopted pursuant to subdivision (a) within four years of those standards being adopted.

(e) It is the intent of the Legislature to encourage the Regents of the University of California, in coordination with the ~~commission~~ *department*, to cease purchasing general purpose lights that do not meet the standards adopted pursuant to subdivision (a), within two years of those standards being adopted.

(f) (1) (A) For purposes of this section, "general purpose lights" means lamps, bulbs, tubes, or other electric devices that provide functional illumination for indoor residential, indoor commercial, and outdoor use.

(B) General purpose lights do not include any of the following types of specialty lighting: appliance, black light, bug, colored, infrared, left-hand thread, marine, marine signal service, mine service, plant light, reflector, rough service, shatter resistant, sign service, silver bowl, showcase, three-way, traffic signal, and vibration service or vibration resistant.

(2) The ~~commission~~ *board* may, after one or more public workshops, with public notice and an opportunity for all interested parties to comment, provide for inclusion of a particular type of specialty light in its energy efficiency standards applicable to general purpose lighting, if it finds that there has been a significant increase in sales of that particular type of particular specialty light due to the use of that specialty light in general purpose lighting applications.

(3) General purpose lights do not include lights needed to provide special-needs lighting for individuals with exceptional needs.

SEC. 158. Section 25402.6 of the Public Resources Code is amended to read:

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

SEC. 159. Section 25402.7 of the Public Resources Code is amended to read:

25402.7. (a) In consultation with the ~~commission~~ *department*, electric and gas utilities shall provide support for building standards and other regulations pursuant to Section 25402 and subdivision (b) of Section 25553 including appropriate research, development, and training to implement those standards and other regulations.

(b) The electric and gas utilities shall provide support pursuant to subdivision (a) only to the extent that funds are made available to the utilities for that purpose.

SEC. 160. Section 25402.8 of the Public Resources Code is amended to read:

25402.8. When assessing new building standards for residential and nonresidential buildings relating to the conservation of energy, the ~~commission~~ *board* shall include in its deliberations the impact that those standards would have on indoor air pollution problems.

SEC. 161. Section 25402.9 of the Public Resources Code is amended to read:

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

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

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

SEC. 162. Section 25403 of the Public Resources Code is amended to read:

25403. The ~~commission~~ *department* shall submit to the Public Utilities Commission and to any publicly owned electric utility, recommendations designed to reduce wasteful, unnecessary, or uneconomic energy consumption resulting from practices, including, but not limited to, differential rate structures, cost-of-service allocations, the disallowance of a business expense of advertising or promotional activities ~~which~~ *that* encourage the use of electrical power, peakload pricing, and other pricing measures. The Public Utilities Commission or publicly owned electric utility shall review and consider ~~such~~ *the* recommendations and shall, within six months after the date it receives them, as prescribed by this section, report to the Governor and the Legislature its actions and reasons therefor with respect to ~~such~~ *the* recommendations.

SEC. 163. Section 25403.5 of the Public Resources Code is amended to read:

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

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

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

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

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

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

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

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

SEC. 164. Section 25403.8 of the Public Resources Code is amended to read:

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

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

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

(d) Based on the criteria described in subdivision (c), the ~~commission~~ *board* shall provide matching grants to cities, counties, and cities and counties for backup battery systems described in this section in accordance with the priority schedule established by the ~~commission~~ *department* pursuant to subdivision (b). The ~~commission~~ *board* shall provide 70 percent of the funds for a battery backup system, and the city, county, or city and county shall provide 30 percent.

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

SEC. 165. Section 25404 of the Public Resources Code is amended to read:

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

SEC. 166. Section 25405.5 of the Public Resources Code is amended to read:

25405.5. (a) As used in this section, the following terms have the following meanings:

(1) “kW” means kilowatts or 1,000 watts, as measured from the alternating current side of the solar energy system inverter consistent with Section 223 of Title 15 of the United States Code.

(2) “Production home” means a single-family residence constructed as part of a development of at least 50 homes per project that is intended or offered for sale.

(3) “Solar energy system” means a solar energy device that has the primary purpose of providing for the collection and distribution

of solar energy for the generation of electricity, that produces at least one kW, and not more than five megawatts, alternating current rated peak electricity, and that meets or exceeds the eligibility criteria established pursuant to Section 25782.

(b) A seller of production homes shall offer a solar energy system option to all customers that enter into negotiations to purchase a new production home constructed on land for which an application for a tentative subdivision map has been deemed complete on or after January 1, 2011, and disclose the following:

(1) The total installed cost of the solar energy system option.

(2) The estimated cost savings associated with the solar energy system option, as determined by the ~~commission~~ *board* pursuant to Chapter 8.8 (commencing with Section 25780) of Division 15.

(c) The ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* shall develop an offset program that allows a developer or seller of production homes to forgo the offer requirement of this section on a project, by installing solar energy systems generating specified amounts of electricity on other projects, including, but not limited to, low-income housing, multifamily, commercial, industrial, and institutional developments. The amount of electricity required to be generated from solar energy systems used as an offset pursuant to this subdivision shall be equal to the amount of electricity generated by solar energy systems installed on a similarly sized project within that climate zone, assuming 20 percent of the prospective buyers would have installed solar energy systems.

(d) The requirements of this section shall not operate as a substitute for the implementation of existing energy efficiency measures, and the requirements of this section shall not result in lower energy savings or lower energy efficiency levels than would otherwise be achieved by the full implementation of energy savings and energy efficiency standards established pursuant to Section 25402.

SEC. 167. Section 25405.6 of the Public Resources Code is amended to read:

25405.6. Not later than July 1, 2007, the ~~commission~~ *department and the board* shall initiate a public proceeding to study and make findings whether, and under what conditions, solar energy systems should be required on new residential and new nonresidential buildings, including the establishment of numerical targets. As part of the study, the ~~commission~~ *board* may determine that a solar energy system should not be required for any building unless the ~~commission~~ *board* determines, based upon consideration of all costs associated with the system, that the system is cost effective when amortized over the economic life of the structure. When determining the cost-effectiveness of the solar energy system, the ~~commission~~ *board* shall consider the availability of governmental rebates, tax deductions, net-metering, and other quantifiable factors, if the ~~commission~~ *board* can determine the availability of these financial incentives if a solar energy system is made mandatory and not elective. The ~~commission~~ *department* shall periodically update the study and incorporate any revision that the ~~commission~~ *department and the board* determines is necessary, including revisions that reflect changes in the financial incentives originally considered by the ~~commission~~ *board* when determining cost-effectiveness of the solar energy system. For purposes of this section, "solar energy system" means a photovoltaic solar collector or other photovoltaic solar energy device that has a primary purpose of providing for the collection and distribution of solar energy for the generation of electricity. This section is intended to be for study purposes only and does not authorize the ~~commission~~ *board* to develop and adopt any requirement for solar energy systems on either residential or nonresidential buildings.

SEC. 168. Section 25410.5 of the Public Resources Code is amended to read:

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

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

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

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

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

(e) Since 1980, the Energy Conservation Assistance Account has provided $110 million in loans, through a revolving loan account, to 600 schools, hospitals, and local governments. The energy conservation projects funded by the account save approximately $35 million annually in energy costs.

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

SEC. 169. Section 25410.6 of the Public Resources Code is amended to read:

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

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

SEC. 170. Section 25412 of the Public Resources Code is amended to read:

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

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

SEC. 171. Section 25413 of the Public Resources Code is amended to read:

25413. Applications may be approved by the ~~commission~~ *department* only in those instances where the eligible institution has furnished information satisfactory to the ~~commission~~ *department* that the costs of the project, plus interest on state funds loaned, calculated in accordance with Section 25415, will be recovered through savings in the cost of energy to the institution during the repayment period of the allocation.

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

SEC. 172. Section 25414 of the Public Resources Code is amended to read:

25414. Annually at the conclusion of each fiscal year, but not later than October 31, each eligible institution that has received an allocation pursuant to this chapter shall compute the cost of energy saved as a result of implementing a project funded by the allocation. The cost shall be calculated in a manner prescribed by the ~~commission~~ *department*.

SEC. 173. Section 25415 of the Public Resources Code is amended to read:

25415. (a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 30 equal semiannual payments, as determined by the ~~commission~~ *department*. The first semiannual payment shall be made on or before December 22 of the fiscal year following the year in which the project is completed. The repayment period may not exceed the life of the equipment, as determined by the ~~commission~~ *department* or the lease term of the building in which the energy conservation measures will be installed.

(b) Notwithstanding any other provision of law, the ~~commission~~ *department* shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 1 percent per annum.

(c) The governing body of each eligible institution shall annually budget an amount at least sufficient to make the semiannual payments required in this section. The amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs or other sources.

SEC. 174. Section 25416 of the Public Resources Code is amended to read:

25416. (a) The State Energy Conservation Assistance Account is hereby created in the General Fund. Notwithstanding Section 13340 of the Government Code, the account is continuously appropriated to the ~~commission~~ *department* without regard to fiscal year.

(b) The money in the account shall consist of all money authorized or required to be deposited in the account by the Legislature and all money received by the ~~commission~~ *department* pursuant to Sections 25414 and 25415.

(c) The money in the account shall be disbursed by the Controller for the purposes of this chapter as authorized by the ~~commission~~ *department*.

(d) The ~~commission~~ *department* may contract and provide grants for services to be performed for eligible institutions. Services may include, but are not limited to, feasibility analysis, project design, field assistance, and operation and training. The amount expended for those services may not exceed 10 percent of the unencumbered balance of the account as determined by the ~~commission~~ *department* on July 1 of each year.

(e) The ~~commission~~ *department* may make grants to eligible institutions for innovative projects and programs. Except as provided in subdivision (d), the amount expended for grants may not exceed 5 percent of the annual unencumbered balance in the account as determined by the ~~commission~~ *department* on July 1 of each fiscal year.

(f) The ~~commission~~ *department* may charge a fee for the services provided under subdivision (d).

(g) Notwithstanding any other provision of law, the Controller may use the State Energy Conservation Assistance Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

SEC. 175. Section 25417 of the Public Resources Code is amended to read:

25417. (a) An allocation made pursuant to this chapter shall be used for the purposes specified in an approved application.

(b) In the event that the ~~commission~~ *department* determines that an allocation has been expended for purposes other than those specified in an approved application, it shall immediately request the return of the full amount of the allocation. The eligible institution shall immediately comply with ~~such~~ *this* request.

SEC. 176. Section 25417.5 of the Public Resources Code is amended to read:

25417.5. (a) In furtherance of the purposes of the ~~commission~~ *department* as set forth in this chapter, the ~~commission~~ *department* has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority~~,~~ *and* the California Infrastructure and Economic Development Bank~~, and the California Consumer Power and Conservation Financing Authority~~ from the proceeds of revenue bonds issued by any of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440).

(3) Sell loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), at prices determined in the sole discretion of the ~~commission~~ *department*, to the California Economic Development Financing Authority~~,~~ *and* the California Infrastructure and Economic Development Bank~~, and the California Consumer Power and Conservation Financing Authority~~ to raise funds to enable the ~~commission~~ *department* to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the ~~California Consumer Power and Conservation Financing Authority~~ *department* as conditions of issuing bonds to fund loans to, or the purchase of loans from, the ~~commission~~ *department*.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the ~~commission~~ *department* may enter into pledge agreements setting forth the terms and conditions pursuant to which the ~~commission~~ *department* is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The ~~commission~~ *department* may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.4 (commencing with Section 25440), and is supplemental and additional to powers conferred by other laws.

SEC. 177. Section 25419 of the Public Resources Code is amended to read:

25419. In addition to the powers specifically granted to the ~~commission~~ *department* by the other provisions of this chapter, the ~~commission~~ *department* shall have the following powers:

(a) To establish qualifications and priorities, consistent with the objectives of this chapter, for making allocations.

(b) To establish ~~such~~ procedures and policies as may be necessary for the administration of this chapter.

SEC. 178. Section 25420 of the Public Resources Code is amended to read:

25420. The ~~commission~~ *department* may expend from the State Energy Conservation Assistance Account an amount to pay for the actual administrative costs incurred by the ~~commission~~ *department* pursuant to this chapter. The amount shall not exceed 5 percent of the annual unencumbered balance in the account as determined by the ~~commission~~ *department* on July 1 of each fiscal year, to be used to defray costs incurred by the ~~commission~~ *department* for allocations made by the ~~commission~~ *department* pursuant to this chapter.

SEC. 179. Section 25422 of the Public Resources Code is amended to read:

25422. (a) Federal funds available to the ~~commission~~ *department* pursuant to Chapter 5.6 (commencing with Section 25460) may be used by the ~~commission~~ *department* to augment funding for grants and loans pursuant to this chapter. Any federal funds used for loans shall, when repaid, be deposited into the Energy Conservation Assistance Account and used to make additional loans pursuant to this chapter.

(b) A separate subaccount shall be established within the Energy Conservation Assistance Account to track the award and repayment of loans from federal funds, including any interest earnings, in accordance with the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

SEC. 180. Section 25426 of the Public Resources Code is amended to read:

25426. As used in this article, the following terms have the following meanings:

(a) "Commercial refrigeration" means a refrigerator that is not a federally regulated consumer product.

(b) "Energy-efficient model" means any appliance that meets the efficiency standards of the United States Department of Energy that are effective on and after July 1, 2001, and, if applicable, products certified as energy efficient zone heating products by the ~~State Energy Resources Conservation and Development Commission~~ *board*.

(c) "Small business" means any small business as defined in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

SEC. 181. Section 25433.5 of the Public Resources Code is amended to read:

25433.5. (a) ~~In~~ *The department, in* consultation with the Public Utilities Commission, ~~the commission~~ shall do both of the following for the purpose of full or partial funding of an eligible construction or retrofit project:

(1) Establish a grant program to provide financial assistance to eligible low-income individuals.

(2) Establish a 2-percent interest per annum loan program to provide financial assistance to a small business owner, residential property owner, or individual who is not eligible for a grant pursuant to paragraph (1). The loans shall be available to a small business owner who has a gross annual income that does not exceed

one hundred thousand dollars ($100,000) or to an individual or residential property owner who has a gross annual household income that does not exceed one hundred thousand dollars ($100,000).

(b) (1) The ~~commission~~ *department* shall use the design guidelines adopted pursuant to paragraph (2) of subdivision (f) of Section 14 of ~~the act that added this section~~ *Chapter 8 of the Statutes of the First Extraordinary Session of 2001* as standards to determine eligible energy-efficiency projects.

(2) The award of a grant pursuant to this section is subject to appeal to the ~~commission~~ *department* upon a showing that the ~~commission~~ *department* applied factors, other than those adopted by the ~~commission~~ *department*, in making the award.

(3) The grant or loan recipient shall commit to using the grant or loan for the purpose for which the grant or loan was awarded.

(4) Any action taken by an applicant to apply for, or to become or remain eligible to receive, a grant award, including satisfying conditions specified by the ~~commission~~ *department*, does not constitute the rendering of goods, services, or a direct benefit to the ~~commission~~ *department*.

(5) The amount of any grant awarded pursuant to this article to a low-income individual does not constitute income for purposes of calculating the recipient's gross income for the tax year during which the grant is received.

SEC. 182. Section 25434 of the Public Resources Code is amended to read:

25434. *(a)* The ~~commission~~ *department* may contract with one or more business entities capable of supplying or providing goods or services necessary for the ~~commission~~ *department* to carry out the responsibilities for the programs conducted pursuant to this article, and shall contract with one or more business entities to evaluate the effectiveness of the programs implemented pursuant to subdivision (a) of Section 25433.5. The ~~commission~~ *department* may select an entity on a sole source basis for one or both of those purposes if the cost to the state will be reasonable and the ~~commission~~ *department* determines that it is in the best interest of the state.

(b) The Department of Finance shall conduct an independent audit of the programs conducted pursuant to this article, and provide an audit report to the Legislature not later than March 1

of each year for which an appropriation has been made to fund the programs. The Department of Finance audit report shall include an evaluation of the effectiveness of the programs implemented pursuant to subdivision (a) of Section 25433.5, and information regarding revenues, payment of awards, reserves held for future commitments, unencumbered cash balances, and other matters that the Director of Finance determines may be of importance to the Legislature.

SEC. 183. Section 25434.5 of the Public Resources Code is amended to read:

25434.5. As used in this article, the following terms have the following meanings:

(a) "Eligible construction or retrofit project" means a project for making improvements to a home or building in existence on ~~the effective date of the act adding this section~~ *April 12, 2001*, through an addition, alteration, or repair, which effectively increases the energy efficiency or reduces the energy consumption of the home or building as specified by the ~~commission's~~ *departmental* guidelines under paragraph (2) of subdivision (f) of Section 14 of ~~the act that added this section~~ *Chapter 8 of the Statutes of the First Extraordinary Session of 2001*. The improvements shall be deemed to be cost-effective.

(b) "Low income" means an individual with a gross annual income equal to or less than 200 percent of the federal poverty level.

(c) "Small business" means any small business as defined in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

SEC. 184. Article 3 (commencing with Section 25435) of Chapter 5.3 of Division 15 of the Public Resources Code is repealed.

SEC. 185. Section 25441 of the Public Resources Code is amended to read:

25441. The ~~commission~~ *department* shall provide financial assistance to local jurisdictions for the purpose of providing staff training and support services, including, but not limited to, planning design, permitting, energy conservation, comprehensive energy management, project evaluation, and development of alternative energy resources.

SEC. 186. Section 25442 of the Public Resources Code is amended to read:

25442. The ~~commission~~ *department* shall provide loans to local jurisdictions for all of the following purposes:

(a) Purchase, maintenance, and evaluation of energy efficient *of peak load reduction* equipment for existing ~~and new~~ *or planned* facilities, including, but not limited to, equipment related to lights, motors, pumps, water and wastewater systems, boilers, heating, and air conditioning.

(b) Purchase, maintenance, and evaluation of small power production systems, including, but not limited to, wind, cogeneration, photovoltaics, geothermal, and hydroelectric systems.

(c) ~~Improve~~ *Improvement of* the operating efficiency of existing local transportation systems.

SEC. 187. Section 25442.5 of the Public Resources Code is amended to read:

25442.5. The ~~commission~~ *department* may award financial assistance for project audits, feasibility studies, engineering and design, and legal and financial analysis related to the purposes of Section 25442.

SEC. 188. Section 25442.7 of the Public Resources Code is amended to read:

25442.7. (a) Loans under this article may not exceed five million dollars ($5,000,000) for any one local jurisdiction unless the ~~commission~~ *department* determines~~, by unanimous vote,~~ that the public interest and objectives of this chapter would be better served at a higher loan amount.

(b) Loan repayments shall be made in accordance with a schedule established by the ~~commission~~ *department*. Repayment of loans shall be made in full unless the ~~commission~~ *department* determines~~, by unanimous vote,~~ that the public interest and objectives of this chapter would be better served by negotiating a reduced loan repayment for a project that fails to meet the technical or financial performance criteria through no fault of the local jurisdiction.

SEC. 189. Section 25443 of the Public Resources Code is amended to read:

25443. (a) Principal and interest payments on loans under this article shall be returned to the ~~commission~~ *department* and shall be used to make additional loans to local jurisdictions pursuant to

Section 25442 or to provide financial assistance to local jurisdictions pursuant to Section 25441.

(b) Notwithstanding any other provision of law, the ~~commission~~ *department* shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and at rates not less than 3 percent per annum.

SEC. 190. Section 25443.5 of the Public Resources Code is amended to read:

25443.5. (a) In furtherance of the purposes of the ~~commission~~ *department* as set forth in this chapter, the ~~commission~~ *department* has the power and authority to do all of the following:

(1) Borrow money, for the purpose of obtaining funds to make loans pursuant to this chapter, from the California Economic Development Financing Authority~~,~~ *and* the California Infrastructure and Economic Development Bank~~, and the California Consumer Power and Conservation Financing Authority~~ from the proceeds of revenue bonds issued by ~~any~~ *either* of those agencies.

(2) Pledge, to provide collateral in connection with the borrowing of money pursuant to paragraph (1), loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), or the principal and interest payments on loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410).

(3) Sell loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), at prices determined in the sole discretion of the ~~commission~~ *department,* to the California Economic Development Financing Authority~~,~~ *and* the California Infrastructure and Economic Development Bank~~, and the California Consumer Power and Conservation Financing Authority~~ to raise funds to enable the ~~commission~~ *department* to make loans to eligible institutions.

(4) Enter into loan agreements or other contracts necessary or appropriate in connection with the pledge or sale of loans pursuant to paragraph (2) or (3), or the borrowing of money as provided in paragraph (1), containing any provisions that may be required by the California Economic Development Financing Authority, the California Infrastructure and Economic Development Bank, or the ~~California Consumer Power and Conservation Financing Authority~~

department as conditions of issuing bonds to fund loans to, or the purchase of loans from, the ~~commission~~ *department*.

(b) In connection with the pledging of loans, or of the principal and interest payment on loans, pursuant to paragraph (2) of subdivision (a), the ~~commission~~ *department* may enter into pledge agreements setting forth the terms and conditions pursuant to which the ~~commission~~ *department* is pledging loans or the principal and interest payment on loans, and may also agree to have the loans held by bond trustees or by independent collateral or escrow agents and to direct that payments received on those loans be paid to those trustee, collateral, or escrow agents.

(c) The ~~commission~~ *department* may employ financial consultants, legal advisers, accountants, and other service providers, as may be necessary in its judgment, in connection with activities pursuant to this chapter.

(d) Notwithstanding any other provision of law, this chapter provides a complete, separate, additional, and alternative method for implementing the measures authorized by this chapter, including the authority of the eligible institutions or local jurisdictions to have borrowed and to borrow in the future pursuant to loans made pursuant to this chapter or Chapter 5.2 (commencing with Section 25410), and is supplemental and additional to powers conferred by other laws.

SEC. 191. Section 25445 of the Public Resources Code is amended to read:

25445. The ~~commission~~ *department* shall design a local jurisdiction energy assistance program for the purpose of providing financial assistance under Article 2 (commencing with Section 25441) and providing loans under Article 3 (commencing with Section 25442). A local jurisdiction's energy assistance program shall be funded through the ~~commission's~~ *department's* existing local government assistance programs, except that if a project is not eligible for funding under an existing program, the ~~commission~~ *department* may fund the project under this chapter.

SEC. 192. Section 25449 of the Public Resources Code is amended to read:

25449. *(a)* The ~~commission~~ *department* shall enter into an agreement with the Regents of the University of California, the Trustees of the California State University, and the Board of Governors of the California Community Colleges for the expenditure of petroleum violation escrow funds to supplement, and not supplant, other available funds to improve energy efficiency at state-supported universities and colleges under their respective jurisdictions by funding projects involving any of the following:

~~(a)~~

(1) Data collection.

~~(b)~~

(2) Establishment of operations and maintenance standards.

~~(c)~~

(3) Staff training.

~~(d)~~

(4) Ongoing energy equipment maintenance.

~~(e)~~

(5) Projects involving heating, ventilation, air conditioning, and lighting equipment.

(b) This section shall remain in effect only until January 1, 2014, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.

SEC. 193. Section 25449.3 of the Public Resources Code is amended to read:

25449.3. (a) The Local Jurisdiction Energy Assistance Account is hereby created in the General Fund. All money appropriated for purposes of this chapter and all money received from local jurisdictions from loan repayments shall be deposited in the account and disbursed by the Controller as authorized by the ~~commission~~ *department*.

(b) The ~~commission~~ *department* may charge a fee for the services provided under this chapter.

(c) The ~~commission~~ *department* may contract for services to be performed by eligible institutions, as defined in subdivision (c) of Section 25411. Those services may include, but are not limited to, performance of a feasibility analysis, and providing project design, field evaluation, and operation and training assistance. The amount expended for contract services may not exceed 10 percent of the annual scheduled loan repayment to the Local Jurisdiction Energy Assistance Account, as determined by the ~~commission~~ *department* not later than July 1 of each fiscal year.

SEC. 194. Section 25450 of the Public Resources Code is amended to read:

25450. (a) The Legislature finds and declares all of the following:

(1) The cost of energy in California is increasing and creating greater demands on local governments' operating budgets.

(2) The 110th Congress enacted the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) that provides energy efficiency and conservation block grants to eligible entities, including states, to reduce fossil fuel emissions, improve energy efficiency, and reduce overall energy use.

(3) Section 545(c)(1)(A) of the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17155(c)(1)(A)) mandates that states receiving block grants under the act use not less than 60 percent of the grant amount to provide subgrants to local governments that are not eligible entities for the purposes of the act.

(4) The 111th Congress enacted the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) that appropriates funds for energy efficiency and conservation, water conservation, home weatherization, green workforce development, and renewable energy.

(b) It is the intent of the Legislature to fully implement the requirements for, and achieve the purposes of, the energy and conservation block grants provided pursuant to the Energy Independence and Security Act of 2007 and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), in the most expedient manner possible, and that the funds allocated to the state pursuant to those acts be administered by the ~~commission~~ *department*. Moreover, to the extent possible without causing undue delay, the ~~commission~~ *department* shall look to the Energy Independence and Security Act of 2007 and the American Recovery and Reinvestment Act of 2009 programs and make policy decisions that leverage and maximize the use of these dollars, including, but not limited to, the areas of energy efficiency, renewable energy, water efficiency, weatherization, and green workforce development.

(c) It is the intent of the Legislature to strive to maximize the opportunity to allocate funds toward the most cost-effective energy efficiency projects, and when allocating funds toward administration, the ~~commission~~ *department* should use the allowable administrative expenses specified in Section 545(c)(4) of the Energy Independence and Security Act of 2007 (42 U.S.C.

Sec. 17155(c)(4)) as a ceiling and improve efficiencies to allocate less than the allowable amount.

SEC. 195. Section 25450.1 of the Public Resources Code is amended to read:

25450.1. The ~~commission~~ *department, by action of the board,* shall administer the funds allocated to and received by the state pursuant to the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) for the Energy Efficiency and Conservation Block Grant Program established pursuant to Section 542 of the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17152), and may use the federal funds to award contracts, grants, and loans as expeditiously as possible consistent with those acts.

SEC. 196. Section 25450.3 of the Public Resources Code is amended to read:

25450.3. The ~~commission~~ *department* shall not exceed the amount specified in Section 545(c)(4) of the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17155(c)(4)) for administrative expenses, which include, but are not limited to, reporting, recordkeeping, and evaluation activities required by the Energy Independence and Security Act of 2007 (42 U.S.C. Section 17001 et seq.), the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and implementing regulations and guidelines, that govern or fund the Energy Efficiency and Conservation Block Grant Program, and the combined administration program costs, indirect costs, overhead, and costs associated with the Statewide Cost Allocation Plan.

SEC. 197. Section 25450.4 of the Public Resources Code is amended to read:

25450.4. The ~~commission~~ *department, by action of the board,* may award contracts, grants, and loans pursuant to this chapter, unless otherwise prohibited by the Energy Independence and Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.), the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), implementing regulations and guidelines.

SEC. 198. Section 25450.5 of the Public Resources Code is amended to read:

25450.5. (a) The ~~commission~~ *department, by action of the board,* may adopt guidelines governing the award, eligibility, and administration of funding pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) at a publicly noticed meeting offering all interested parties an opportunity to comment. The ~~commission~~ *board* shall provide written public notice of not less than 30 days for the initial adoption of guidelines. Substantive changes to the guidelines shall not be adopted without 15-day written notice to the public. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Grants and loans made pursuant to this chapter are subject to appeal to the ~~commission~~ *board* upon a showing that factors other than those described in the guidelines adopted by the ~~commission~~ *board* were applied in making the awards and payments.

SEC. 199. Section 25460 of the Public Resources Code is amended to read:

25460. (a) The Legislature finds and declares that the 111th Congress enacted the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) that appropriates funds for various energy programs administered by the ~~commission~~ *department*.

(b) It is the intent of the Legislature that the ~~commission~~ *department, by action of the board,* should have the authority to award contracts, grants, and loans from funds received pursuant to the American Recovery and Reinvestment Act of 2009 and to make the awards as expeditiously as possible.

SEC. 200. Section 25461 of the Public Resources Code is amended to read:

25461. (a) Except as provided in Chapter 5.5 (commencing with Section 25450), the ~~commission~~ *department* shall administer federal funds allocated to, and received by, the state for energy-related projects pursuant to the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or federal acts related to the American Recovery and Reinvestment Act of 2009.

(b) Unless otherwise prohibited by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or subsequent federal acts related to the American Recovery and Reinvestment Act of 2009, the ~~commission~~ *department, by action of the board,* may use the federal funds to award contracts, grants, and loans for energy efficiency, energy conservation, renewable energy, and other energy-related projects and activities authorized by the American Recovery and Reinvestment Act of 2009 or subsequent federal acts related to the American Recovery and Reinvestment Act of 2009.

SEC. 201. Section 25462 of the Public Resources Code is amended to read:

25462. (a) The ~~commission~~ *department, by action of the board,* may adopt guidelines governing the award, eligibility, and administration of funding pursuant to this chapter at a publicly noticed meeting offering all interested parties an opportunity to comment. The ~~commission~~ *board* shall provide written public notice of not less than 30 days for the initial adoption of guidelines. Substantive changes to the guidelines shall not be adopted without 15-day written notice to the public. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Grants and loans made pursuant to this chapter are subject to appeal to the ~~commission~~ *board* upon a showing that factors other than those described in the guidelines adopted by the ~~commission~~ *board* were applied in making the awards and payments.

SEC. 202. Section 25463 of the Public Resources Code is amended to read:

25463. (a) Notwithstanding any other provision of this division, federal funds available to the ~~commission~~ *department* pursuant to this chapter may be used by the ~~commission~~ *department, by action of the board,* to augment funding for any programs or measures authorized by this division unless otherwise prohibited by the American Recovery and Reinvestment Act of 2009 (Public Law 111-5). The ~~commission~~ *department* may administer any funds used to augment other programs using the procedures of the augmented program consistent with applicable federal law.

(b) This section shall be liberally construed to maximize the ~~commission's~~ *department's and the board's* ability to utilize and award federal funds expeditiously and in accordance with the

American Recovery and Reinvestment Act of 2009 or federal acts related to the American Recovery and Reinvestment Act of 2009.

SEC. 203. Section 25470 of the Public Resources Code is amended to read:

25470. As used in this chapter:

(a) "Act" means the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5).

(b) "Allocation" means a loan of funds by the Department of General Services pursuant to the procedures specified in this chapter.

(c) "Building" means any existing structure that includes a heating or cooling system, or both. Additions to an existing building shall be considered part of that building rather than a separate building.

~~(d) "Department" means the Department of General Services.~~

~~(e)~~

(d) "Energy audit" means a determination of the energy consumption characteristics of a building that does all of the following:

(1) Identifies the type, size, and energy use level of the building and the major energy using systems of the building.

(2) Determines appropriate energy conservation maintenance and operating procedures.

(3) Indicates the need, if any, for the acquisition and installation of energy conservation measures.

~~(f)~~

(e) "Energy conservation maintenance and operating procedure" means a modification or modifications in the maintenance and operations of a building, and any installations therein, based on the use time schedule of the building that are designed to reduce energy consumption in the building and that require no significant expenditure of funds.

~~(g)~~

(f) "Energy conservation measure" means an installation or modification of an installation in a building that is primarily intended to reduce energy consumption or allow the use of a more cost-effective energy source.

~~(h)~~

(g) "Energy conservation project" means an undertaking to acquire and to install one or more energy conservation measures

in a building, and technical assistance in connection with that undertaking.

~~(i)~~

(h) "Fund" means the Energy Efficient State Property Revolving Fund.

~~(j)~~

(i) "Project" means a purpose for which an allocation may be requested and made under this chapter. Those purposes shall include energy audits, energy conservation and operating procedures, and energy conservation measures in existing buildings, and energy conservation projects.

~~(k)~~

(j) "State agency" means a unit of state government, including any department, agency, board, or commission under the State of California.

~~(*l*)~~

(k) "State-owned building" means a building that is primarily occupied by offices or agencies of a unit of state government and includes those properties owned by the State of California.

SEC. 204. Section 25471 of the Public Resources Code is amended to read:

25471. (a) There is hereby created in the State Treasury the Energy Efficient State Property Revolving Fund for the purpose of implementing this chapter. Notwithstanding Section 13340 of the Government Code, the money in this fund is continuously appropriated to the ~~department~~ *Department of General Services*, without regard to fiscal years, for loans for projects on state-owned buildings and facilities to achieve greater, long-term energy efficiency, energy conservation, and energy cost and use avoidance.

(b) The fund shall be administered by the ~~department~~ *Department of General Services*. The ~~department~~ *Department of General Services* may use other funding sources to leverage project loans.

(c) For the 2009–10 fiscal year, the sum of twenty-five million dollars ($25,000,000) shall be transferred into the Energy Efficient State Property Revolving Fund from money received by the ~~commission~~ *department* pursuant to the act to be used for purposes of the federal State Energy Program.

(d) The Controller shall disburse moneys in the fund for the purposes of this chapter, as authorized by the ~~department~~ *Department of General Services*.

(e) Moneys in the fund, including all interest earnings, shall be clearly delineated and distinctly accounted for in accordance with the requirements of the act.

SEC. 205. Section 25472 of the Public Resources Code is amended to read:

25472. (a) The ~~department~~ *Department of General Services*, in consultation with the ~~commission~~ *department*, shall establish a process by which projects are identified and funding is allocated.

(b) Beginning July 1, 2009, the ~~department~~ *Department of General Services* shall use money in the fund for projects that will improve long-term energy efficiency and increase energy use savings.

(c) The ~~department~~ *Department of General Services* shall comply with the requirements of the act and implementing guidelines of the ~~commission~~ *department*, including, but not limited to, performance metrics, data collection, and reporting. All projects must be consistent with these requirements and guidelines.

(d) Funding prioritization shall be granted to those projects that are cost-effective and will yield immediate and sustainable energy efficiency, energy conservation, energy use cost savings, and cost avoidance.

(e) The ~~department~~ *Department of General Services* shall fund allowable projects through a loan to the appropriate state agency or agencies occupying the building or facility for which the project will be performed.

(f) The ~~department~~ *Department of General Services* shall determine a reasonable loan repayment schedule that may not exceed the life of the energy conservation measure equipment, as determined by the ~~department~~ *Department of General Services*, or the lease term of the building in which the energy conservation measure is installed.

(g) Maximum loan amounts shall be based on estimated energy cost savings that will allow state agencies to repay loan principal and interest within the maximum repayment term specified in this section.

(h) The ~~department~~ *Department of General Services* shall periodically set interest rates on the loans based on surveys of existing financial markets and at rates of not less than 1 percent per annum.

(i) Annual loan repayment amounts shall be structured so as to reflect the projected annualized energy cost avoidance estimated from the completed project. The ~~department~~ *Department of General Services* may utilize a direct billing methodology to recover loan repayments for completed projects.

SEC. 206. Section 25473 of the Public Resources Code is amended to read:

25473. (a) On or before January 1, 2010, and annually thereafter, the ~~department~~ *Department of General Services*, in collaboration with the ~~commission~~ *department*, shall submit to the Legislature's fiscal and appropriate policy committees a report that includes an initial list of projects identified and planned for the 2009–10 fiscal year, and for each fiscal year thereafter. The report also shall include the anticipated cost of each project, an analysis of the results of the methodology, and an estimate of energy savings to be achieved.

(b) On or before July 1, 2010, the ~~department~~ *Department of General Services*, in collaboration with the ~~commission~~ *department*, shall submit to the Legislature an update to the January 1, 2010, report.

SEC. 207. Section 25474 of the Public Resources Code is amended to read:

25474. (a) Any repayment of loans made pursuant to this chapter, including interest payments, and all interest earnings on or accruing to, any money resulting from the implementation of this chapter in the Energy Efficient State Property Revolving Fund, shall be deposited in that fund and shall be available for the purposes of this chapter.

(b) The ~~department~~ *Department of General Services* may recover costs of administering the projects and related costs through energy utility rebates awarded to the state agency as a result of completed projects up to 5 percent of the project loan amounts. Project costs can include energy efficiency improvements and costs associated with managing the project and administering the loan program, including all reporting requirements.

SEC. 208. Section 25494 of the Public Resources Code is amended to read:

25494. Not later than July 31, 1978, the ~~commission~~ *department* shall prepare a manual outlining a methodology by which governmental agencies and the general public may at their option compare the lifecycle costs of various building design alternatives. This manual will provide the information and procedures necessary to evaluate a building's lifecycle costs in the microclimate and utility service area where it is to be built.

SEC. 209. Section 25495 of the Public Resources Code is amended to read:

25495. No later than July 31, 1978, the ~~commission~~ *department* shall develop design guidelines for new construction which include energy conserving options, including, but not limited to, the use of daylighting, heating ventilation and air conditioning economizer cycles, natural ventilation, building envelope solar heat gain control mechanisms, and alternative energy systems such as solar energy for space heating and water heating and load management strategies. These guidelines and the cost analysis done pursuant to Section 25494 may be considered by government agencies at their option for ultimate selection of a building design in the competitive bidding process.

SEC. 210. Section 25496 of the Public Resources Code is amended to read:

25496. No later than July 1, 1978, the ~~commission~~ *department* shall develop and make available to government agencies and the general public to be utilized at their option lighting standards for existing buildings. These standards shall address, but not be limited to, task and general area lighting levels, light switching and control mechanisms, and lighting energy budgets. The ~~commission~~ *department* may provide advice and recommendations to the public or any governmental agency as to the standards.

SEC. 211. Chapter 5.10 (commencing with Section 25499) is added to Division 15 of the Public Resources Code, to read:

Chapter 5.10. Low-Income Energy Assistance and Community Services

25499. (a) The Legislature finds and declares all of the following:

(1) Low-income energy assistance programs, including the Low Income Home Energy Assistance Program (LIHEAP) and the

Weatherization Assistance Program (WAP), and Community Service Block Grant program are administered in California through a statewide network of community-based organizations, including public and private nonprofit agencies, that serve as local service providers for a comprehensive suite of assistance programs designed to ameliorate the causes and impacts of poverty.

(2) The network of local service providers work closely with their fellow nonprofit agencies as well as the private sector to meet the disparate needs of low-income individuals and families by providing a variety of interrelated services, including home energy, nutrition, housing, and employment.

(3) Unlike various other energy conservation and energy efficiency programs administered by the state, the state's LIHEAP and WAP are designed specifically to meet the energy-related health and safety needs of low-income individuals and families.

(b) It is the intent of the Legislature to ensure that these energy and community service programs funded by federal block grants continue to be administered by a single entity that will maintain and support the provision of a comprehensive suite of assistance services to low-income individuals and families and that the positive impact of these programs on the target population of low-income individuals and families not be diluted or redirected to other purposes.

25499.1. The programs transferred pursuant to subdivision (d) of Section 25202 shall be identified as a separate line item in the annual Budget Act.

25499.2. The department shall administer the programs and activities transferred pursuant to subdivision (d) of Section 25202 in compliance with Article 1.7 (commencing with Section 16366.1) of Chapter 2 of Part 2 of Division 4 of, and Chapter 9 (commencing with Section 12725) of Part 2 of Division 3 of, Title 2 of the Government Code. This chapter does not authorize the use of federal block grant funds in a manner that is inconsistent with federal law or state law, including Section 12758 of the Government Code.

SEC. 212. Section 25500 of the Public Resources Code is amended to read:

25500. In accordance with the provisions of this division, the ~~commission~~ *board* shall have the exclusive power to certify all sites and related facilities in the state, whether a new site and related facility or a change or addition to an existing facility. The issuance of a certificate by the ~~commission~~ *board* shall be in lieu of any permit, certificate, or similar document required by any state, local or regional agency, or federal agency to the extent permitted by federal law, for such use of the site and related facilities, and shall supersede any applicable statute, ordinance, or regulation of any state, local, or regional agency, or federal agency to the extent permitted by federal law.

After the effective date of this division, no construction of any facility or modification of any existing facility shall be commenced without first obtaining certification for any such site and related facility by the commission, as prescribed in this division.

SEC. 213. Section 25500.5 of the Public Resources Code is amended to read:

25500.5. The ~~commission~~ *board* shall certify sufficient sites and related facilities which are required to provide a supply of electric power sufficient to ~~accomodate~~ *accommodate* the demand projected in the most recent forecast of statewide and service area electric power demands adopted pursuant to subdivision (b) of Section ~~25309~~ *25302*.

SEC. 214. Section 25501 of the Public Resources Code is amended to read:

25501. This chapter does not apply to any site or related facility ~~for which the Public Utilities Commission has issued a certificate of public convenience and necessity or which any municipal utility has approved before January 7, 1975~~ *that was not subject to this chapter prior to January 1, 2011, and that as of July 1, 2011, has an application accepted as complete by the agency with jurisdiction on or before December 31, 2010*.

SEC. 215. Section 25501.7 of the Public Resources Code is amended to read:

25501.7. ~~Any~~ *A* person proposing to construct a facility or a site to which Section 25501 applies may waive the exclusion of ~~such~~ *the* site and related facility from the provisions of this chapter by submitting to the ~~commission~~ *department* a notice to that effect on or after July 1, 1976, and any and all of the provisions of this chapter shall apply to the construction of ~~such~~ *the* facility.

SEC. 216. Section 25502 of the Public Resources Code is repealed.

~~25502. Each person proposing to construct a thermal powerplant or electric transmission line on a site shall submit to the commission a notice of intention to file an application for the certification of the site and related facility or facilities. The notice shall be an attempt primarily to determine the suitability of the proposed sites to accommodate the facilities and to determine the general conformity of the proposed sites and related facilities with standards of the commission and assessments of need adopted pursuant to Sections 25305 to 25308, inclusive. The notice shall be in the form prescribed by the commission and shall be supported by such information as the commission may require.~~

~~Any site and related facility once found to be acceptable pursuant to Section 25516 is, and shall continue to be, eligible for consideration in an application for certification without further proceedings required for a notice under this chapter.~~

SEC. 217. Section 25502.3 of the Public Resources Code is repealed.

~~25502.3. Except as provided in Section 25501.7, any person proposing to construct a facility excluded from the provisions of this chapter may waive such exclusion by submitting to the commission a notice of intention to file an application for certification, and any and all of the provisions of this chapter shall apply to the construction of such facility.~~

SEC. 218. Section 25503 of the Public Resources Code is repealed.

~~25503. Each notice of intention to file an application shall contain at least three alternative sites and related facilities, at least one of which shall not be located in whole or in part in the coastal zone. In addition, the alternative sites and related electrical facilities may be proposed from an inventory of sites which have previously been approved by the commission in a notice of intent or may be proposed from sites previously examined.~~

SEC. 219. Section 25504 of the Public Resources Code is repealed.

~~25504. The notice of intention shall include a statement by the applicant describing the location of the proposed sites by section or sections, range and township, and county; a summary of the proposed design criteria of the facilities; the type or types of fuels to be used; the methods of construction and operation; the proposed location of facilities and structures on each site; a preliminary~~

~~statement of the relative economic, technological, and environmental advantages and disadvantages of the alternative site and related facility proposals; a statement of need for the facility and information showing the compatibility of the proposals with the most recent electricity report issued pursuant to Section 25308; and any other information that an electric utility deems desirable to submit to the commission.~~

SEC. 220. Section 25504.5 of the Public Resources Code is repealed.

~~25504.5. An applicant may, in the notice, propose a site to be approved which will accomodate a potential maximum electric generating capacity in excess of the capacity being proposed for the initial approval of the commission. If such a proposal is made, the notice shall include, but not be limited to, in addition to the information specified in Section 25504, all of the following:~~

~~(a) The number, type, and energy source of electric generating units which the site is proposed ultimately to accomodate and the maximum generating capacity for each unit.~~

~~(b) The projected installation schedule for each unit.~~

~~(c) The impact at the site when fully developed, on the environment and public health and safety.~~

~~(d) The amount and sources of cooling water needed at the fully developed site.~~

~~(e) The location and specifications of auxiliary facilities planned for each state of development including, but not limited to, pipelines, waste storage facilities, fuel storage facilities, switchyards, coolant lines, coolant outfalls, and cooling ponds, lakes, or towers.~~

SEC. 221. Section 25505 of the Public Resources Code is repealed.

~~25505. Upon receipt of a notice, the commission shall cause a summary of the notice to be published in a newspaper of general circulation in each county in which the sites and related facilities, or any part thereof, designated in the notice are proposed to be located. The commission shall also transmit a copy of the notice to the Public Utilities Commission, for sites and related facilities requiring a certificate of public convenience and necessity, and to other federal, state, regional, and local agencies having an interest in matters pertinent to the proposed facilities at any of the~~

~~alternative sites. A copy of the notice shall also be transmitted to the Attorney General.~~

SEC. 222. Section 25506 of the Public Resources Code is repealed.

~~25506. The commission shall request the appropriate local, regional, state, and federal agencies to make comments and recommendations regarding the design, operation, and location of the facilities designated in the notice, in relation to environmental quality, public health and safety, and other factors on which they may have expertise.~~

SEC. 223. Section 25506.5 of the Public Resources Code is repealed.

~~25506.5. The commission shall request the Public Utilities Commission, for sites and related facilities requiring a certificate of public convenience and necessity, to make comments and recommendations regarding the design, operation, and location of the facilities designated in the notice in relation to the economic, financial, rate, system reliability, and service implications of the proposed facilities.~~

SEC. 224. Section 25507 of the Public Resources Code is repealed.

~~25507. (a) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the coastal zone, the commission shall transmit a copy of the notice to the California Coastal Commission. The California Coastal Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 30413 prior to commencement of hearings pursuant to Section 25513.~~

~~(b) If any alternative site and related facility proposed in the notice is proposed to be located, in whole or in part, within the Suisun Marsh, or within the jurisdiction of the San Francisco Bay Conservation and Development Commission, the commission shall transmit a copy of the notice to the San Francisco Bay Conservation and Development Commission. The San Francisco Bay Conservation and Development Commission shall analyze the notice and prepare the report and findings prescribed by subdivision (d) of Section 66645 of the Government Code prior to commencement of hearings pursuant to Section 25513.~~

SEC. 225. Section 25508 of the Public Resources Code is amended to read:

25508. The ~~commission~~ *department* shall cooperate with, and render advice to, the California Coastal Commission and the San Francisco Bay Conservation and Development Commission in studying applications for any site and related facility proposed to be located, in whole or in part, within the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission if requested by the California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be. The California Coastal Commission or the San Francisco Bay Conservation and Development Commission, as the case may be, may participate in public hearings on the notice and on the application for site and related facility certification as an interested party in ~~such~~ *the* proceedings.

SEC. 226. Section 25509 of the Public Resources Code is repealed.

~~25509. Within 45 days of the filing of the notice, the commission shall conduct public informational presentations in the county or counties in which the proposed sites and related facilities are located. The place of such public informational presentations shall be as close as practicable to the proposed sites. Such presentations shall be for the purpose of setting forth the electrical demand basis for the proposed site and related facility and providing knowledge and understanding of the proposed facilities and sites.~~

SEC. 227. Section 25509.5 of the Public Resources Code is repealed.

~~25509.5. No sooner than 15 days after the conclusion of the presentations pursuant to Section 25509, the commission shall commence nonadjudicatory hearings. Such hearings shall identify issues for adjudication in hearings pursuant to Section 25513, issues which may be eliminated from further consideration in the notice proceedings, and issues which should be deferred to the certification proceeding. Any person may participate to the extent deemed reasonable and relevant by the presiding member of the commission in any such hearing. In scheduling such hearings the presiding member shall confer with the public adviser to provide that the hearing dates and locations are as convenient as possible for interested parties and the public. Such hearings shall be conducted in order to accomplish all of the following purposes:~~

~~(a) To set forth the electrical demand basis for the proposed site and related facility.~~

~~(b) To provide knowledge and understanding of proposed facilities and sites.~~

~~(c) To obtain the views and comments of the public, parties, and concerned governmental agencies on the environmental, public health and safety, economic, social, and land use impacts of the facility at the proposed sites.~~

~~(d) To solicit information regarding reasonable alternative sources of the electric generating capacity or energy to be provided by alternative sites and related facilities, or combinations thereof, which will better carry out the policies and objectives of this division.~~

SEC. 228. Section 25510 of the Public Resources Code is repealed.

~~25510. After the conclusion of such hearings, and no later than 150 days after filing of the notice, the commission shall prepare and make public a summary and hearing order on the notice of intention to file an application. The commission may include within the summary and hearing order any other alternatives proposed by the commission or presented to the commission at a public hearing prior to preparation of the summary and hearing order. The summary and hearing order shall be published and made available to the public and to interested local, regional, state, and federal agencies.~~

SEC. 229. Section 25511 of the Public Resources Code is repealed.

~~25511. The commission shall review the factors related to safety and reliability of the facilities at each of the alternative sites designated in the notice. In addition to other information requested of the applicant, the commission shall, in determining the appropriateness of sites and related facilities, require detailed information on proposed emergency systems and safety precautions, plans for transport, handling and storage of wastes and fuels, proposed methods to prevent illegal diversion of nuclear fuels, special design features to account for seismic and other potential hazards, proposed methods to control density of population in areas surrounding nuclear powerplants, and such other information as the commission may determine to be relevant to the reliability and safety of the facility at the proposed sites.~~

~~The commission shall analyze the information provided by the applicant, supplementing it, where necessary, by onsite investigations and other studies. The commission shall determine the adequacy of measures proposed by the applicant to protect public health and safety, and shall include its findings in the final report required by Section 25514.~~

SEC. 230. Section 25512 of the Public Resources Code is repealed.

~~25512. The summary and hearing order shall be based upon the record of the proceeding including statements or documents presented during any hearing or informational presentation on the notice, the comments transmitted by the Public Utilities Commission and local, regional, state, and federal agencies and the public to the commission, and independent studies conducted by the commission's staff.~~

~~The summary and hearing order shall:~~

~~(a) Identify those issues for consideration in hearings pursuant to Section 25513.~~

~~(b) Identify those issues which may be eliminated from further consideration in the notice of intention proceedings.~~

~~(c) Identify those issues which should be deferred to the certification proceeding.~~

~~(d) Contain proposed findings on matters relevant to the provisions of Section 25514.~~

~~(e) Specify dates for the adjudicatory hearings.~~

SEC. 231. Section 25512.5 of the Public Resources Code is repealed.

~~25512.5. Within 15 days of the publication of the summary and hearing order, a copy will be distributed to any person who requests such copy.~~

SEC. 232. Section 25513 of the Public Resources Code is repealed.

~~25513. No earlier than 30 days after distribution of the summary and hearing order, the commission shall commence adjudicatory hearings pursuant to the hearing order.~~

SEC. 233. Section 25514 of the Public Resources Code is repealed.

~~25514. After conclusion of the hearings held pursuant to Section 25513 and no later than 300 days after the filing of the~~

~~notice, a final report shall be prepared and distributed. The final report shall include, but not be limited to, all of the following:~~

~~(a) The findings and conclusions of the commission regarding the conformity of alternative sites and related facilities designated in the notice or considered in the notice of intention proceeding with both of the following:~~

~~(1) The 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, except as provided in Section 25514.5.~~

~~(2) Applicable local, regional, state, and federal standards, ordinances, and laws, including any long-range land use plans or guidelines adopted by the state or by any local or regional planning agency, which would be applicable but for the exclusive authority of the commission to certify sites and related facilities; and the standards adopted by the commission pursuant to Section 25216.3.~~

~~(b) Any findings and comments submitted by the California Coastal Commission pursuant to Section 25507 and subdivision (d) of Section 30413.~~

~~(c) Any findings and comments submitted by the San Francisco Bay Conservation and Development Commission pursuant to Section 25507 of this code and subdivision (d) of Section 66645 of the Government Code.~~

~~(d) The commission's findings on the acceptability and relative merit of each alternative siting proposal designated in the notice or presented at the hearings and reviewed by the commission. The specific findings of relative merit shall be made pursuant to Sections 25502 to 25516, inclusive. In its findings on any alternative siting proposal, the commission may specify modification in the design, construction, location, or other conditions which will meet the standards, policies, and guidelines established by the commission.~~

~~(e) Findings and conclusions with respect to the safety and reliability of the facility or facilities at each of the sites designated in the notice, as determined by the commission pursuant to Section 25511, and any conditions, modifications, or criteria proposed for any site and related facility proposal resulting from the findings and conclusions.~~

~~(f) Findings and conclusions as to whether increased property taxes due to the construction of the project are sufficient to support~~

~~needed local improvements and public services required to serve the project.~~

SEC. 234. Section 25514.3 of the Public Resources Code is repealed.

~~25514.3. In specifying any modifications, conditions, or criteria pursuant to Section 25514, for sites and related facilities requiring a certificate of public convenience and necessity, the commission shall request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of such modifications, conditions, or criteria.~~

SEC. 235. Section 25514.5 of the Public Resources Code is repealed.

~~25514.5. In considering the acceptability of a site proposed to accommodate ultimately additional power-generating capacity, the commission, in determining, pursuant to Sections 25514 and 25512, the conformity of the facilities proposed in the notice with the 12-year forecast of statewide and service area electric power demands adopted pursuant to subdivision (e) of Section 25305, shall base its determination only on such initial facilities as are proposed for operation within the forthcoming 12-year period. Additional facilities projected to be operating at the site at a time beyond the forthcoming 12-year period shall not be considered in the determination of conformity with the electric power demand forecast.~~

SEC. 236. Section 25515 of the Public Resources Code is repealed.

~~25515. No later than 30 days after the final report is distributed, a hearing or hearings on the final report shall be commenced. Such hearings shall be concluded within 15 days of their commencement.~~

SEC. 237. Section 25516 of the Public Resources Code is repealed.

~~25516. The approval of the notice by the commission shall be based upon findings pursuant to Section 25514. The notice shall not be approved unless the commission finds at least two alternative site and related facility proposals considered in the commission's final report as acceptable. If the commission does not find at least two sites and related facilities acceptable, additional sites and related facilities may be proposed by the applicant which shall be~~

~~considered in the same manner as those proposed in the original notice.~~

~~If the commission finds that a good faith effort has been made by the person submitting the notice to find an acceptable alternative site and related facility and that there is only one acceptable site and related facility among those submitted, the commission may approve the notice based on the one site and related facility. If a notice is approved based on one site and related facility, the commission may require a new notice to be filed to identify acceptable alternative sites and related facilities for the one site and related facility approved unless suitable alternative sites and related facilities have been approved by the commission in previous notice of intention proceedings.~~

~~If the commission finds that additional electric generating capacity is needed to accommodate the electric power demand forecast pursuant to subdivision (e) of Section 25305 and, after the commission finds that a good faith effort was made by the person submitting the notice to propose an acceptable site and related facility, it fails to find any proposed site and related facility to be acceptable, the commission shall designate, at the request of and at the expense of the person submitting the notice, a feasible site and related facility for providing the needed electric generating capacity.~~

SEC. 238. Section 25516.1 of the Public Resources Code is repealed.

~~25516.1. If a site and related facility found to be acceptable by the commission pursuant to Section 25516 is located in the coastal zone, the Suisun Marsh, or the jurisdiction of the San Francisco Bay Conservation and Development Commission, no application for certification may be filed pursuant to Section 25519 unless the commission has determined, pursuant to Section 25514, that such site and related facility have greater relative merit than available alternative sites and related facilities for an applicant's service area which have been determined to be acceptable by the commission pursuant to Section 25516.~~

SEC. 239. Section 25516.5 of the Public Resources Code is repealed.

~~25516.5. On a notice which proposes an expanded ultimate electric generating capacity for a site, the commission may, based upon findings pursuant to Section 25514, either approve the notice~~

~~only for the initial facility or facilities proposed for operation within the forthcoming 12-year period or may approve the notice for the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the commission.~~

~~If a notice is approved which includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple-facility site. The commission may, in determining the acceptability of a potential multiple-facility site, specify conditions or criteria necessary to insure that future additional facilities will not exceed the limitations of the site.~~

SEC. 240. Section 25516.6 of the Public Resources Code is repealed.

~~25516.6. (a) Except as otherwise expressly provided in this division, the commission shall issue its written decision on the notice not later than 12 months after the notice is filed, or at any later time as is mutually agreed upon by the commission and the applicant.~~

~~(b) The commission shall determine, within 45 days after it receives the notice, whether the notice is complete. If the commission determines that the notice is complete, the notice shall be deemed filed for the purpose of this section on the date that this determination is made. If the commission determines that the notice is incomplete, the commission shall specify, in writing, those parts of the notice which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the notice, the commission shall determine, within 30 days after receipt of that data, whether the data is sufficient to make the notice complete. The notice shall be deemed filed on the date the commission determines the notice is complete if the commission has adopted regulations specifying the informational requirements for a complete notice, but if the commission has not adopted regulations, the notice shall be deemed filed on the last date the commission receives any additional data that completes the notice.~~

SEC. 241. Section 25517 of the Public Resources Code is amended to read:

25517. Except as provided in Section 25501,~~ no~~ construction of~~ any~~ *a* thermal *or nonthermal solar* powerplant *of 50 megawatts or greater* or electric transmission line shall *not* be commenced by any electric utility without first obtaining certification as prescribed in this division. Any onsite improvements not qualifying as construction may be required to be restored as determined by the~~ commission~~ *board* to be necessary to protect the environment, if certification is denied.

SEC. 242. Section 25519 of the Public Resources Code is amended to read:

25519. (a) In order to obtain certification for a site and related facility, an application for certification of the site and related facility shall be filed with the~~ commission~~ *department*. The application shall be in a form prescribed by the~~ commission and shall be for a site and related facility that has been found to be acceptable by the commission pursuant to Section 25516, or for an additional facility at a site that has been designated a potential multiple-facility site pursuant to Section 25514.5 and found to be acceptable pursuant to Sections 25516 and 25516.5. An application for an additional facility at a potential multiple-facility site shall be subject to the conditions and review specified in Section 25520.5. An application may not be filed for a site and related facility, if there is no suitable alternative for the site and related facility that was previously found to be acceptable by the commission, unless the commission has approved the notice based on the one site as specified in Section 25516~~ *department*.

(b) The~~ commission~~ *board*, upon its own motion or in response to the request of any party, may require the applicant to submit any information, document, or data, in addition to the attachments required by subdivision (i), that it determines is reasonably necessary to make any decision on the application.

(c) The~~ commission~~ *department* shall be the lead agency as provided in Section 21165 for all projects that require certification pursuant to this chapter and for projects that are exempted from such certification pursuant to Section 25541. Unless the ~~commission's~~ *board's* regulatory program governing site and facility certification and related proceedings are certified by the *Natural* Resources Agency pursuant to Section 21080.5, an environmental impact report shall be completed within one year after receipt of the application. If the~~ commission~~ *department* prepares a document or documents in the place of an environmental impact report or negative declaration under a regulatory program certified pursuant to Section 21080.5, any other public agency that must make a decision that is subject to the California Environmental Quality Act, Division 13 (commencing with Section 21000), on a site or related facility, shall use the document or documents prepared by the ~~commission~~ *department* in the same manner as they would use an environmental impact report or negative declaration prepared by a lead agency.

(d) If the site and related facility specified in the application is proposed to be located in the coastal zone, the ~~commission~~ *department* shall transmit a copy of the application to the California Coastal Commission for its review and comments.

(e) If the site and related facility specified in the application is proposed to be located in the Suisun Marsh or the jurisdiction of the San Francisco Bay Conservation and Development Commission, the ~~commission~~ *department* shall transmit a copy of the application to the San Francisco Bay Conservation and Development Commission for its review and comments.

(f) Upon receipt of an application, the ~~commission~~ *department* shall forward the application to local governmental agencies having land use and related jurisdiction in the area of the proposed site and related facility. Those local agencies shall review the application and submit comments on, among other things, the design of the facility, architectural and aesthetic features of the facility, access to highways, landscaping and grading, public use of lands in the area of the facility, and other appropriate aspects of the design, construction, or operation of the proposed site and related facility.

(g) Upon receipt of an application, the ~~commission~~ *department* shall cause a summary of the application to be published in a newspaper of general circulation in the county in which the site and related facilities, or any part thereof, designated in the application, is proposed to be located. The ~~commission~~ *department* shall transmit a copy of the application to each federal and state agency having jurisdiction or special interest in matters pertinent to the proposed site and related facilities and to the Attorney General.

(h) Local and state agencies having jurisdiction or special interest in matters pertinent to the proposed site and related facilities shall provide their comments and recommendations on the project within 180 days of the date of filing of an application.

(i) The adviser shall require that adequate notice is given to the public and that the procedures specified by this division are complied with.

(j) For any proposed site and related facility requiring a certificate of public convenience and necessity, the ~~commission~~ *department* shall transmit a copy of the application to the Public Utilities Commission and request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the proposed site and related facility. If the ~~commission~~ *board* requires modification of the proposed facility, the ~~commission~~ *board and the department* shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of those modifications.

(k) The ~~commission~~ *department* shall transmit a copy of the application to any governmental agency not specifically mentioned in this act, but which it finds has any information or interest in the proposed site and related facilities, and shall invite the comments and recommendations of each agency. The ~~commission~~ *department* shall request any relevant laws, ordinances, or regulations that an agency has promulgated or administered.

(*l*) An application for certification of any site and related facilities shall contain a listing of every federal agency from which any approval or authorization concerning the proposed site is required, specifying the approvals or authorizations obtained at the time of the application and the schedule for obtaining any approvals or authorizations pending.

SEC. 243. Section 25520 of the Public Resources Code is amended to read:

25520. The application shall contain all of the following information and any other information that the ~~commission~~ *board* by regulation may require:

(a) A detailed description of the design, construction, and operation of the proposed facility.

(b) Safety and reliability information, including, ~~in addition to documentation previously provided pursuant to Section 25511~~ *but* *not limited to*, planned provisions for emergency operations and shutdowns.

(c) Available site information, including maps and descriptions of present and proposed development and, as appropriate, geological, aesthetic, ecological, seismic, water supply, population, and load center data, and justification for the particular site proposed.

(d) Any other information relating to the design, operation, and siting of the facility that the ~~commission~~ *board* may specify.

(e) A description of the facility, the cost of the facility, the fuel to be used, the source of fuel, fuel cost, plant service life and capacity factor, and generating cost per kilowatthour.

(f) A description of any electric transmission lines, including the estimated cost of the proposed electric transmission line; a map in suitable scale of the proposed routing showing details of the rights-of-way in the vicinity of settled areas, parks, recreational areas, and scenic areas, and existing transmission lines within one mile of the proposed route; justification for the route, and a preliminary description of the effect of the proposed electric transmission line on the environment, ecology, and scenic, historic, and recreational values.

(g) A discussion of the applicant's site selection criteria, any alternative sites that the applicant considered for the project, and the reasons why the applicant chose the proposed site. This subdivision does not apply to an application for certification of any of the following:

(1) A modification of an existing facility.

(2) A powerplant that can be sited, in a technologically or economically feasible manner, only at or near the energy source.

(3) A cogeneration project at an existing industrial site.

(4) A thermal powerplant at an existing industrial site, if the commission finds that the project has a strong relationship to the existing industrial site and that it is therefore reasonable not to analyze alternative sites for the project.

SEC. 244. Section 25520.5 of the Public Resources Code is repealed.

~~25520.5. (a) In reviewing an application for an additional facility at a potential multiple-facility site, the commission shall undertake a reconsideration of its prior determinations in the final report on the notice for the site issued pursuant to Section 25514,~~

~~based on current conditions and other reasonable and feasible alternatives to the proposed facility.~~

~~(b) Within 180 days of the filing of the application for an additional facility at a potential multiple-facility site and after adequate public hearings, the commission shall issue its decision on the acceptability of the proposed facility based on the reconsideration specified in subdivision (a) of this section. A negative determination shall be the final decision of the commission on the application and subject to judicial review pursuant to Section 25531. An affirmative determination shall not be a final decision of the commission on the application.~~

~~(c) The decision of the commission on an application for an additional facility at a potential multiple-facility site receiving a favorable determination pursuant to subdivision (b) of this section shall be issued within 24 months after the filing of the application or at such later time as is mutually agreed upon by the commission and the applicant.~~

SEC. 245. Section 25521 of the Public Resources Code is amended to read:

25521. No earlier than 90 nor later than 240 days after the date of the filing of an application, the ~~commission~~ *board* shall commence a public hearing or hearings on the application in Sacramento, San Francisco, Los Angeles, or San Diego, whichever city is nearest the proposed site. Additionally, the ~~commission~~ *board* may hold a hearing or hearings in the county in which the proposed site and related facilities are to be located. The ~~commission~~ *board* hearings shall provide a reasonable opportunity for the public and all parties to the proceeding to comment upon the application and the ~~commission~~ *department* staff assessment and shall provide the equivalent opportunity for comment as required pursuant to Division 13 (commencing with Section 21000). Consistent with the requirements of this section, the ~~commission~~ *board* shall have the discretion to determine whether or not a hearing is to be conducted in a manner that requires formal examination of witnesses or that uses other similar adjudicatory procedures.

SEC. 246. Section 25522 of the Public Resources Code is amended to read:

25522. (a) ~~Except as provided in subdivision (c) of Section 25520.5, within 18~~ *Within 12* months of the filing of an application for certification~~, or within 12 months if it is filed within one year of the commission's approval of the notice of intent,~~ or at any later time as is mutually agreed by the ~~commission~~ *board* and the applicant, the ~~commission~~ *board* shall issue a written decision as to the application.

(b) The ~~commission~~ *department* shall determine, within 45 days after it receives the application, whether the application is complete. If the ~~commission~~ *department* determines that the application is complete, the application shall be deemed filed for purposes of this section on the date that this determination is made. If the ~~commission~~ *department* determines that the application is incomplete, the ~~commission~~ *department* shall specify in writing those parts of the application which are incomplete and shall indicate the manner in which it can be made complete. If the applicant submits additional data to complete the application, the ~~commission~~ *department* shall determine, within 30 days after receipt of that data, whether the data is sufficient to make the application complete. The application shall be deemed filed on the date when the ~~commission~~ *department* determines the application is complete if the ~~commission~~ *board* has adopted regulations specifying the informational requirements for a complete application, but if the ~~commission~~ *board* has not adopted regulations, the application shall be deemed filed on the last date the ~~commission~~ *department* receives any additional data that completes the application.

SEC. 247. Section 25523 of the Public Resources Code is amended to read:

25523. The ~~commission~~ *board* shall prepare a written decision after the public hearing on an application~~, which~~ *that* includes all of the following:

(a) Specific provisions relating to the manner in which the proposed facility is to be designed, sited, and operated in order to protect environmental quality and ~~assure~~ *ensure* public health and safety.

(b) In the case of a site to be located in the coastal zone, specific provisions to meet the objectives of Division 20 (commencing with Section 30000) as may be specified in the report submitted by the California Coastal Commission pursuant to subdivision (d) of Section 30413, unless the ~~commission~~ *board* specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or that the provisions proposed in the report would not be feasible.

(c) In the case of a site to be located in the Suisun Marsh or in the jurisdiction of the San Francisco Bay Conservation and Development Commission, specific provisions to meet the requirements of Division 19 (commencing with Section 29000) of this code or Title 7.2 (commencing with Section 66600) of the Government Code as may be specified in the report submitted by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (d) of Section 66645 of the Government Code, unless the ~~commission~~ *board* specifically finds that the adoption of the provisions specified in the report would result in greater adverse effect on the environment or the provisions proposed in the report would not be feasible.

(d) (1) Findings regarding the conformity of the proposed site and related facilities with standards adopted by the ~~commission~~ *board* pursuant to Section 25216.3 and subdivision (d) of Section 25402, with public safety standards and the applicable air and water quality standards, and with other applicable local, regional, state, and federal standards, ordinances, or laws. If the ~~commission~~ *board* finds that there is noncompliance with a state, local, or regional ordinance or regulation in the application, it shall consult and meet with the state, local, or regional governmental agency concerned to attempt to correct or eliminate the noncompliance. If the noncompliance cannot be corrected or eliminated, the ~~commission~~ *board* shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The ~~commission~~ *board* may not find that the proposed facility conforms with applicable air quality standards pursuant to paragraph (1) unless the applicable air pollution control district or air quality management district certifies, prior to the licensing of the project by the ~~commission~~ *board*, that complete emissions offsets for the proposed facility have been identified and will be obtained by the applicant within the time required by the district's rules or unless the applicable air pollution control district or air quality management district certifies that the applicant requires emissions offsets to be obtained prior to the commencement of operation consistent with Section 42314.3 of the Health and Safety Code and prior to commencement of the operation of the proposed

facility. The ~~commission~~ *board* shall require as a condition of certification that the applicant obtain any required emission offsets within the time required by the applicable district rules, consistent with any applicable federal and state laws and regulations, and prior to the commencement of the operation of the proposed facility.

(e) Provision for restoring the site as necessary to protect the environment, if the ~~commission~~ *board* denies approval of the application.

(f) In the case of a site and related facility using resource recovery (waste-to-energy) technology, specific conditions requiring that the facility be monitored to ensure compliance with paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315 of the Health and Safety Code.

(g) In the case of a facility, other than a resource recovery facility subject to subdivision (f), specific conditions requiring the facility to be monitored to ensure compliance with toxic air contaminant control measures adopted by an air pollution control district or air quality management district pursuant to subdivision (d) of Section 39666 or Section 41700 of the Health and Safety Code, whether the measures were adopted before or after issuance of a determination of compliance by the district.

(h) A discussion of any public benefits from the project including, but not limited to, economic benefits, environmental benefits, and electricity reliability benefits.

SEC. 248. Section 25524.1 of the Public Resources Code is amended to read:

25524.1. (a) Except for the existing Diablo Canyon Units 1 and 2 owned by Pacific Gas and Electric Company and San Onofre Units 2 and 3 owned by Southern California Edison Company and San Diego Gas and Electric Company, ~~no~~ *a* nuclear fission thermal powerplant requiring the reprocessing of fuel rods, including any to which this chapter does not otherwise apply, excepting any having a vested right as defined in this section, shall *not* be permitted land use in the state or, where applicable, certified by the ~~commission~~ *board* until both of the following conditions are met:

(1) The ~~commission~~ *board* finds that the United States through its authorized agency has identified and approved, and there exists

a technology for the construction and operation of, nuclear fuel rod reprocessing plants.

(2) The ~~commission~~ *board* has reported its findings and the reasons therefor pursuant to paragraph (1) to the Legislature. That report shall be assigned to the appropriate policy committees for review. The ~~commission~~ *board* may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting ~~its~~ *the board's* findings unless within those 100 legislative days either house of the Legislature adopts by a majority vote of its members a resolution disaffirming the findings of the ~~commission~~ *board* made pursuant to paragraph (1).

(3) A resolution of disaffirmance shall set forth the reasons for the action and shall provide, to the extent possible, guidance to the ~~commission~~ *board* as to an appropriate method of bringing the ~~commission's~~ *board's* findings into conformance with paragraph (1).

(4) If a disaffirming resolution is adopted, the ~~commission~~ *board* shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its reexamination, the ~~commission~~ *board* shall transmit its findings in writing, with the reasons therefor, to the Legislature.

(5) If the findings are that the conditions of paragraph (1) have been met, the ~~commission~~ *board* may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings to the Legislature unless within those 100 legislative days both houses of the Legislature act by statute to declare the findings null and void and ~~takes~~ *take* appropriate action.

(6) To allow sufficient time for the Legislature to act, the reports of findings of the ~~commission~~ *board* shall be submitted to the Legislature at least six calendar months prior to the adjournment of the Legislature sine die.

(b) The ~~commission~~ *board* shall further find on a case-by-case basis that facilities with adequate capacity to reprocess nuclear fuel rods from a certified nuclear facility or to store that fuel if that storage is approved by an authorized agency of the United States are in actual operation or will be in operation at the time that the nuclear facility requires reprocessing or storage; provided, however, that the storage of fuel is in an offsite location to the extent necessary to provide continuous onsite full core reserve storage capacity.

(c) The ~~commission~~ *department* shall continue to receive and process ~~notices of intention and~~ applications for certification pursuant to this division, but *the board* shall not issue a decision pursuant to Section 25523 granting a certificate until the requirements of this section have been met. All other permits, licenses, approvals, or authorizations for the entry or use of the land, including orders of court~~, which~~ *that* may be required may be processed and granted by the governmental entity concerned, but construction work to install permanent equipment or structures shall not commence until the requirements of this section have been met.

SEC. 249. Section 25524.2 of the Public Resources Code is amended to read:

25524.2. Except for the existing Diablo Canyon Units 1 and 2 owned by Pacific Gas and Electric Company and San Onofre Units 2 and 3 owned by Southern California Edison Company and San Diego Gas and Electric Company, ~~no~~ *a* nuclear fission thermal powerplant, including any to which this chapter does not otherwise apply, but excepting those exempted herein, shall *not* be permitted land use in the state, or where applicable, be certified by the ~~commission~~ *board* until both of the following conditions have been met:

(a) The ~~commission~~ *board* finds that there has been developed and that the United States through its authorized agency has approved and there exists a demonstrated technology or means for the disposal of high-level nuclear waste.

(b) (1) The ~~commission~~ *board* has reported its findings and the reasons therefor pursuant to paragraph (a) to the Legislature. That report shall be assigned to the appropriate policy committees for review. The ~~commission~~ *board* may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings unless within those 100 legislative days either house of the Legislature adopts by a majority vote of its members a resolution disaffirming the findings of the ~~commission~~ *board* made pursuant to subdivision (a).

(2) A resolution of disaffirmance shall set forth the reasons for the action and shall provide, to the extent possible, guidance to the ~~commission~~ *board* as to an appropriate method of bringing the ~~commission's~~ *board's* findings into conformance with subdivision (a).

(3) If a disaffirming resolution is adopted, the ~~commission~~ *board* shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its reexamination, the ~~commission~~ *board* shall transmit its findings in writing, with the reasons therefor, to the Legislature.

(4) If the findings are that the conditions of subdivision (a) have been met, the ~~commission~~ *board* may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting its findings to the Legislature unless within those 100 legislative days both houses of the Legislature act by statute to declare the findings null and void and take appropriate action.

(5) To allow sufficient time for the Legislature to act, the reports of findings of the ~~commission~~ *board* shall be submitted to the Legislature at least six calendar months prior to the adjournment of the Legislature sine die.

(c) As used in subdivision (a), "technology or means for the disposal of high-level nuclear waste" means a method for the permanent and terminal disposition of high-level nuclear waste. Nothing in this section requires that facilities for the application of that technology or means be available at the time that the ~~commission~~ *board* makes its findings. That disposition of high-level nuclear waste does not preclude the possibility of an approved process for retrieval of the waste.

(d) The ~~commission~~ *board* shall continue to receive and process notices of intention and applications for certification pursuant to this division but shall not issue a decision pursuant to Section 25523 granting a certificate until the requirements of this section have been met. All other permits, licenses, approvals, or authorizations for the entry or use of the land, including orders of court~~, which~~ *that* may be required may be processed and granted by the governmental entity concerned, but construction work to install permanent equipment or structures shall not commence until the requirements of this section have been met.

SEC. 250. Section 25524.5 of the Public Resources Code is repealed.

~~25524.5. The commission shall not certify any facility which adds generating capacity to a potential multiple-facility site in excess of the maximum allowable capacity established by the commission pursuant to Section 25516.5, unless the commission finds that exceeding the maximum allowable capacity will not~~

~~increase adverse environmental impacts or create technological, seismic, or other difficulties beyond those already found acceptable in the commission's findings on the notice for that site pursuant to Sections 25516 and 25516.5.~~

SEC. 251. Section 25525 of the Public Resources Code is amended to read:

25525. The ~~commission may~~ *board shall* not certify a facility contained in the application ~~when~~ *if* it finds, pursuant to subdivision (d) of Section 25523, that the facility does not conform with any applicable state, local, or regional standards, ordinances, or laws, unless the ~~commission~~ *board* determines that the facility is required for public convenience and necessity and that there are not more prudent and feasible means of achieving public convenience and necessity. In making the determination, the ~~commission~~ *board* shall consider the entire record of the proceeding, including, but not limited to, the impacts of the facility on the environment, consumer benefits, and electric system reliability. The ~~commission may~~ *board shall* not make a finding in conflict with applicable federal law or regulation. The basis for these findings shall be reduced to writing and submitted as part of the record pursuant to Section 25523.

SEC. 252. Section 25526 of the Public Resources Code is amended to read:

25526. (a) The ~~commission~~ *board* shall not approve as a site for a facility any location designated by the California Coastal Commission pursuant to subdivision (b) of Section 30413, unless the California Coastal Commission first finds that ~~such~~ *the* use is not inconsistent with the primary uses of ~~such~~ *that* land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of ~~such~~ *the* land is obtained.

(b) The ~~commission~~ *board* shall not approve as a site for a facility any location designated by the San Francisco Bay Conservation and Development Commission pursuant to subdivision (b) of Section 66645 of the Government Code unless the San Francisco Bay Conservation and Development Commission first finds that such use is not inconsistent with the primary uses of such land and that there will be no substantial adverse environmental effects and unless the approval of any public agency having ownership or control of ~~such~~ *the* land is obtained.

SEC. 253. Section 25527 of the Public Resources Code is amended to read:

25527. The following areas of the state shall not be approved as a site for a facility, unless the ~~commission~~ *board* finds that ~~such~~ *the* use is not inconsistent with the primary uses of ~~such~~ *those* lands and that there will be no substantial adverse environmental effects and the approval of any public agency having ownership or control of ~~such~~ *those* lands is obtained:

(a) State, regional, county and city parks; wilderness, scenic, or natural reserves; areas for wildlife protection, recreation, historic preservation; or natural preservation areas in existence on the effective date of this division.

(b) Estuaries in an essentially natural and undeveloped state.

In considering applications for certification, the ~~commission~~ *board* shall give the greatest consideration to the need for protecting areas of critical environmental concern, including, but not limited to, unique and irreplaceable scientific, scenic, and educational wildlife habitats; unique historical, archaelogical, and cultural sites; lands of hazardous concern; and areas under consideration by the state or the United States for wilderness, or wildlife and game reserves.

SEC. 254. Section 25528 of the Public Resources Code is amended to read:

25528. (a) The ~~commission~~ *board* shall require, as a condition of certification of any site and related facility, that the applicant acquire, by grant or contract, the right to prohibit development of privately owned lands in the area of the proposed site ~~which~~ *that* will result in population densities in excess of the maximum population densities ~~which~~ *that* the ~~commission~~ *board* determines, as to the factors considered by the ~~commission~~ *board* pursuant to Section 25511, are necessary to protect public health and safety.

If the applicant is authorized to exercise the right of eminent domain under Article 7 (commencing with Section 610) of Chapter 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant may exercise the right of eminent domain to acquire ~~such~~ *those* development rights ~~as~~ *that* the ~~commission~~ *board* requires be acquired.

(b) In the case of an application for a nuclear facility, the area and population density necessary to ~~insure~~ *ensure* the public's health and safety designated by the ~~commission~~ *board* shall be that as determined from time to time by the United States Nuclear Regulatory Commission, if the ~~commission~~ *board* finds that ~~such~~ *the* determination is sufficiently definitive for valid land use planning requirements.

(c) The ~~commission~~ *board* shall waive the requirements of the acquisition of development rights by an applicant to the extent that the ~~commission~~ *board* finds that existing governmental land use restrictions are of a type necessary and sufficient to guarantee the maintenance of population levels and land use development over the lifetime of the facility which will ~~insure~~ *ensure* the public health and safety requirements set pursuant to this section.

(d) No change in governmental land use restrictions in ~~such~~ areas designated in subdivision (c) of this section by any government agency shall be effective until approved by the ~~commission~~ *board*. ~~Such~~ *This* approval shall certify that the change in land use restrictions is not in conflict with requirements provided for by this section.

(e) It is not the intent of the Legislature by the enactment of this section to take private property for public use without payment of just compensation in violation of the United States Constitution or the Constitution of California.

SEC. 255. Section 25529 of the Public Resources Code is amended to read:

25529. ~~When~~ *If* a facility is proposed to be located in the coastal zone or any other area with recreational, scenic, or historic value, the ~~commission~~ *board* shall require, as a condition of certification of any facility contained in the application, that an area be established for public use, as determined by the ~~commission~~ *board*. Lands within ~~such~~ *the* area shall be acquired and maintained by the applicant and shall be available for public access and use, subject to restrictions required for security and public safety. The applicant may dedicate ~~such~~ *the* public use zone to any local agency agreeing to operate or maintain it for the benefit of the public. If no local agency agrees to operate or maintain the public use zone for the benefit of the public, the applicant may dedicate ~~such~~ *the* zone to the state. The ~~commission~~ *board* shall also require that any facility to be located along the coast or shoreline of any major body of water be set back from the shoreline to permit reasonable public use and to protect scenic and aesthetic values.

SEC. 256. Section 25530 of the Public Resources Code is amended to read:

25530. *(a)* The ~~commission~~ *board* may order a reconsideration of all or part of a decision or order on its own motion or on petition of any party.

~~Any such~~

(b) The petition *for reconsideration* shall be filed within 30 days after adoption by the ~~commission~~ *board* of a decision or order. The ~~commission~~ *board* shall not order a reconsideration on its own motion more than 30 days after it has adopted a*decision* or order. The ~~commission~~ *board* shall order or deny reconsideration on a petition ~~therefor~~ within 30 days after the petition is filed.

~~A~~

(c) A decision or order may be reconsidered by the ~~commission~~ *board* on the basis of all pertinent portions of the record together with ~~such~~ *any* argument ~~as~~ *that* the ~~commission~~ *board* may permit, or the ~~commission~~ *board* may hold a further hearing, after notice to all interested persons. A decision or order of the ~~commission~~ *board* on reconsideration shall have the same force and effect as an original order or decision.

SEC. 257. Section 25531 of the Public Resources Code is amended to read:

25531. (a) The decisions of the ~~commission~~ *board* on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California.

(b) ~~No new~~ *New* or additional evidence ~~may~~ *shall not* be introduced upon review and the cause shall be heard on the record of the ~~commission~~ *board* as certified to by it. The review shall not be extended further than to determine whether the ~~commission~~ *board* has regularly pursued its authority, including a determination of whether the order or decision under review violates any right of the petitioner under the United States Constitution or the California Constitution. The findings and conclusions of the ~~commission~~ *board* on questions of fact are final and are not subject to review, except as provided in this article. These questions of fact shall include ultimate facts and the findings and conclusions of the ~~commission~~ *board*. A report prepared by, or an approval of, the ~~commission~~ *board* pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the ~~commission~~ *board* subject to judicial review.

(c) Subject to the right of judicial review of decisions of the ~~commission~~ *board*, no court in this state has jurisdiction to hear or determine any case or controversy concerning any matter which was, or could have been, determined in a proceeding before the ~~commission~~ *board*, or to stop or delay the construction or operation of any thermal powerplant except to enforce compliance with the provisions of a decision of the ~~commission~~ *board*.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the ~~commission~~ *board* requires, pursuant to subdivision (a) of Section 25528, as a condition of certification of any site and related facility, that the applicant acquire development rights, that requirement conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought by the applicant to acquire the development rights.

(2) If the ~~commission~~ *board* certifies any site and related facility, that certification conclusively establishes the matters referred to in Sections 1240.030 and 1240.220 of the Code of Civil Procedure in any eminent domain proceeding brought to acquire the site and related facility.

(e) ~~No~~ *A* decision of the ~~commission~~ *board* pursuant to Section 25516, 25522, or 25523 shall *not* be found to mandate a specific supply plan for any utility as prohibited by Section 25323.

SEC. 258. Section 25532 of the Public Resources Code is amended to read:

25532. The ~~commission~~ *department* shall establish a monitoring system to assure that any facility certified under this division is constructed and is operating in compliance with air and water quality, public health and safety, and other applicable regulations, guidelines, and conditions adopted or established by the ~~commission~~ *board* or specified in the written decision on the application. In designing and operating the monitoring system, the ~~commission~~ *department* shall seek the cooperation and assistance of the State Air Resources Board, the State Water Resources Control Board, the Department of Health, and other state, regional, and local agencies which have an interest in environmental control.

SEC. 259. Section 25534 of the Public Resources Code is amended to read:

25534. (a) The ~~commission~~ *board* may, after one or more hearings, amend the conditions of, or revoke the certification for, any facility for any of the following reasons:

(1) Any material false statement set forth in the application, presented in proceedings of the ~~commission~~ *board*, or included in supplemental documentation provided by the applicant.

(2) Any significant failure to comply with the terms or conditions of approval of the application, as specified by the ~~commission~~ *board* in its written decision.

(3) A violation of this division or any regulation or order issued by the ~~commission~~ *board* under this division.

~~(4) The owner of a project does not start construction of the project within 12 months after the date all permits necessary for the project become final and all administrative and judicial appeals have been resolved provided the California Consumer Power and Conservation Financing Authority notifies the commission that it is willing and able to construct the project pursuant to subdivision (g). The project owner may extend the 12-month period by 24 additional months pursuant to subdivision (f). This paragraph applies only to projects with a project permit application deemed complete by the commission after January 1, 2003.~~

(b) The ~~commission~~ *board* may also administratively impose a civil penalty for a violation of paragraph (1) or (2) of subdivision (a). Any civil penalty shall be imposed in accordance with Section 25534.1 and may not exceed seventy-five thousand dollars ($75,000) per violation, except that the civil penalty may be increased by an amount not to exceed one thousand five hundred dollars ($1,500) per day for each day in which the violation occurs or persists, but the total of the per day penalties may not exceed fifty thousand dollars ($50,000).

(c) A project owner shall commence construction of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) within 12 months after the project has been certified by the ~~commission~~ *board* and after all accompanying project permits are final and administrative and judicial appeals have been completed. The project owner shall submit construction and commercial operation milestones to the ~~commission~~ *board* within 30 days after project certification. Construction milestones shall require the start of construction within the 12-month period established by this subdivision. The ~~commission~~ *board* shall approve milestones within 60 days after project certification. If the 30-day deadline to submit construction milestones to the ~~commission~~ *board* is not met, the ~~commission~~ *board* shall establish milestones for the project.

~~(d) The failure of the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to meet construction or commercial operation milestones, without a finding by the commission of good cause, shall be cause for revocation of certification or the imposition of other penalties by the commission.~~

~~(e) A finding by the commission that there is good cause for failure to meet the start-of-construction deadline required by paragraph (4) of subdivision (a) or any subsequent milestones of subdivision (c) shall be made if the commission determines that any of the following criteria are met:~~

~~(1) The change in any deadline or milestone does not change the established deadline or milestone for the start of commercial operation.~~

~~(2) The deadline or milestone is changed due to circumstances beyond the project owner's control, including, but not limited to, administrative and legal appeals.~~

~~(3) The deadline or milestone will be missed but the project owner demonstrates a good faith effort to meet the project deadline or milestone.~~

~~(4) The deadline or milestone will be missed due to unforeseen natural disasters or acts of God that prevent timely completion of the project deadline or milestone.~~

~~(5) The deadline or milestone will be missed for any other reason determined reasonable by the commission.~~

~~(f) The commission shall extend the start-of-construction deadline required by paragraph (4) of subdivision (a) by an additional 24 months, if the owner reimburses the commission's actual cost of licensing the project, less the amount paid pursuant to subdivision (a) of Section 25806. For the purposes of this section, the commission's actual cost of licensing the project shall be based on a certified audit report filed by the commission staff within 180 days of the commission's certification of the project. The certified audit shall be filed and served on all parties to the~~

~~proceeding, is subject to public review and comment, and is subject to at least one public hearing if requested by the project owner. Any reimbursement received by the commission pursuant to this subdivision shall be deposited in the General Fund.~~

~~(g) If the owner of a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) fails to commence construction, without good cause, within 12 months after the project has been certified by the commission and has not received an extension pursuant to subdivision (f), the commission shall provide immediate notice to the California Consumer Power and Conservation Financing Authority. The authority shall evaluate whether to pursue the project independently or in conjunction with any other public or private entity, including the original certificate holder. If the authority demonstrates to the commission that it is willing and able to construct the project either independently or in conjunction with any other public or private entity, including the original certificate holder, the commission may revoke the original certification and issue a new certification for the project to the authority, unless the authority's statutory authorization to finance or approve new programs, enterprises, or projects has expired. If the authority declines to pursue the project, the permit shall remain with the current project owner until it expires pursuant to the regulations adopted by the commission.~~

~~(h) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority, the commission shall adopt new milestones for the project that allow the authority up to 24 months to start construction of the project or to start to meet the applicable deadlines or milestones. If the authority fails to begin construction in conformity with the deadlines or milestones adopted by the commission, without good cause, the certification may be revoked.~~

~~(i) (1) If the commission issues a new certification for a project subject to the start-of-construction deadline provided by paragraph (4) of subdivision (a) to the authority and the authority pursues the project without participation of the original certificate holder, the authority shall offer to reimburse the original certificate holder for the actual costs the original certificate holder incurred in permitting the project and in procuring assets associated with the license, including, but not limited to, major equipment and the~~

~~emission offsets. In order to receive reimbursement, the original certificate holder shall provide to the commission documentation of the actual costs incurred in permitting the project. The commission shall validate those costs. The certificate holder may refuse to accept the offer of reimbursement for any asset associated with the license and retain the asset. To the extent the certificate holder chooses to accept the offer for an asset, it shall provide the authority with the asset.~~

~~(2) If the authority reimburses the original certificate holder for the costs described in paragraph (1), the original certificate holder shall provide the authority with all of the assets for which the original certificate holder received reimbursement.~~

~~(j) This section does not prevent a certificate holder from selling its license to construct and operate a project prior to its revocation by the commission. In the event of a sale to an entity that is not an affiliate of the certificate holder, the commission shall adopt new deadlines or milestones for the project that allow the new certificate holder up to 12 months to start construction of the project or to start to meet the applicable deadlines or milestones.~~

~~(k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued for the modernization, repowering, replacement, or refurbishment of existing facilities or to a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the regulations adopted pursuant to those sections by the Federal Energy Regulatory Commission (18 C.F.R. Parts 292.101 to 292.602, inclusive), nor shall those provisions apply to any other generation units installed, operated, and maintained at a customer site exclusively to serve that facility’s load. For the purposes of this subdivision, “replacement” of an existing facility includes, but is not limited to, a comparable project at a location different than the facility being replaced, provided that the commission certifies that the new project will result in the decommissioning of the existing facility.~~

~~(*l*) Paragraph (4) of subdivision (a) and subdivisions (c) to (j), inclusive, do not apply to licenses issued to “local publicly owned electric utilities,” as defined in Section 224.3 of the Public Utilities Code, whose governing bodies certify to the commission that the~~

~~project is needed to meet the projected native load of the local publicly owned utility.~~

~~(m) To implement this section, the commission and the California Consumer Power and Conservation Financing Authority may, in consultation with each other, adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including, without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, or general welfare.~~

SEC. 260. Section 25534.1 of the Public Resources Code is amended to read:

25534.1. (a) The ~~executive director of the commission~~ *department* may issue a complaint to any person or entity on whom an administrative civil penalty may be imposed pursuant to Section 25534. The complaint shall allege the act or failure to act for which the civil penalty is proposed, the provision of law authorizing civil liability, and the proposed civil penalty.

(b) The complaint shall be served by personal notice or certified mail, and shall inform the party so served that a hearing will be conducted within 60 days after the party has been served. The hearing shall be before the ~~commission~~ *board*. The complainant may waive the right to a hearing, in which case the ~~commission~~ *board* shall not conduct a hearing.

(c) After any hearing, the ~~commission~~ *board* may adopt, with or without revision, the proposed decision and order of the ~~executive director~~ *department*.

(d) Orders setting an administrative civil penalty shall become effective and final upon issuance thereof, and any payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the complaint and upon other persons who appeared at the hearing and requested a copy.

(e) In determining the amount of the administrative civil penalty, the ~~commission~~ *board* shall take into consideration the nature, circumstance, extent, and gravity of the violation or violations, whether the violation is susceptible to removal or resolution, the cost to the state in pursuing the enforcement action, and with respect to the violator, the ability to pay, the effect on ability to continue in business, any voluntary removal or resolution efforts undertaken, any prior history of violations, the degree of culpability, economic savings, if any, resulting from the violation, and such other matters as justice may require.

SEC. 261. Section 25534.2 of the Public Resources Code is amended to read:

25534.2. (a) Within 30 days after service of an order issued under Section 25534.1, any aggrieved party may file with the superior court a petition for writ of mandate for review thereof pursuant to Section 1094.5 of the Code of Civil Procedure. If no aggrieved party petition for a writ of mandate is filed within the time provided by this section, an order of the ~~commission~~ *board* is not subject to review by any court or agency, except that the ~~commission~~ *board* may grant review on its own motion of an order issued under Section 25534.1 after the expiration of the time limits set by this section.

(b) Upon request of the ~~commission~~ *board*, the Attorney General shall institute an action in the appropriate superior court to collect and recover any administrative civil penalties imposed pursuant to Section 25534.1. The court shall accord priority on its calendar to any action under this subdivision.

(c) Any moneys recovered by the ~~commission~~ *board* pursuant to this section shall be deposited in the General Fund.

SEC. 262. Section 25537 of the Public Resources Code is amended to read:

25537. Upon approval of an application *by the board*, the ~~commission~~ *department* shall forward to the United States Nuclear Regulatory Commission, the Environmental Protection Agency, and to other appropriate federal agencies, the results of its studies including the environmental impact report on the facility, the written decision on the facility contained in the application, and the ~~commission's~~ *board's* determination of facility safety and reliability as provided in Section 25511.

SEC. 263. Section 25538 of the Public Resources Code is amended to read:

25538. Upon receiving the ~~commission's~~ *board's* request for review under subdivision (f) of Section 25519 and Section 25506, the local agency may request a fee from the ~~commission~~ *board* to reimburse the local agency for the actual and added costs of this review by the local agency. The ~~commission~~ *board* shall reimburse the local agency for the added costs that shall be actually incurred by the local agency in complying with the ~~commission's~~ *board's* request. The local agency may also request reimbursement for permit fees that the local agency would receive but for the operation of Section 25500, provided, however, that ~~such~~ *these* fees may only be requested in accordance with actual services performed by the local agency. The ~~commission~~ *board* shall either request a fee from the person proposing the project or devote a special fund in its budget~~,~~ for the reimbursement of ~~such~~ *these* costs incurred by local agencies.

SEC. 264. Section 25539 of the Public Resources Code is amended to read:

25539. In reviewing notices and applications for certification of modifications of existing facilities, the ~~commission~~ *board* shall adopt rules and regulations as necessary to ~~insure~~ *ensure* that relevant duties pursuant to this division are carried out.

SEC. 265. Section 25540 of the Public Resources Code is amended to read:

25540. If a person proposes to construct a geothermal powerplant and related facility or facilities on a site, the ~~commission~~ *board* shall not require three alternative sites and related facilities to be proposed in the notice. Except as otherwise provided, the ~~commission~~ *board* shall issue its findings on the notice, as specified in Section 25514, within nine months from the date of filing of such notice, and shall issue its final decision on the application, as specified in Section 25523, within nine months from the date of the filing of the application for certification, or at such later time as is mutually agreed to by the ~~commission~~ *board* and the applicant or person submitting the notice or application.

SEC. 266. Section 25540.1 of the Public Resources Code is amended to read:

25540.1. The ~~commission~~ *board* shall determine, within 30 days after the receipt of a notice or application for a geothermal powerplant, whether the notice or application is complete. If the notice or application is determined not to be complete, the ~~commission's~~ *board's* determination shall specify, in writing, those parts of the notice or application which are incomplete and shall indicate the manner in which it can be made complete. Within 30 days after receipt of the applicant's filing with the ~~commission~~

board the additional information requested by the ~~commission~~ *board* to make the notice or application complete, the ~~commission~~ *board* shall determine whether the subsequent filing is sufficient to complete the notice or application. A notice or application shall be deemed filed for purposes of Section 25540 on the date the ~~commission~~ *board* determines the notice or application is completed if the ~~commission~~ *board* has adopted regulations specifying the informational requirements for a complete notice or application, but if the ~~commission~~ *board* has not adopted regulations, the notice or application shall be deemed filed on the last date the ~~commission~~ *board* receives any additional data that completes the notice or application.

SEC. 267. Section 25540.2 of the Public Resources Code is amended to read:

25540.2. Notwithstanding any other provision of law~~:~~*,*

~~(a) If an applicant proposes to construct a geothermal powerplant at a site which, at the outset of the proceeding, the applicant can reasonably demonstrate to be capable of providing geothermal resources in commercial quantities, no notice of intention pursuant to Section 25502 shall be required, and the commission shall issue the final decision on the application, as specified in Section 25523, within 12 months after acceptance of the application for certification of a geothermal powerplant and related facilities, or at such later time as is mutually agreed by the commission and the applicant.~~

~~(b) Upon~~

upon receipt of an application for certification of a geothermal powerplant and related facilities, the ~~commission~~ *department* shall transmit a copy of the application to every state and local agency having jurisdiction over land use in the area involved.

SEC. 268. Section 25540.3 of the Public Resources Code is amended to read:

25540.3. (a) An applicant for a geothermal powerplant may propose a site to be approved that will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction. In addition to the information concerning the initial powerplant and related facilities proposed for construction required pursuant to Section 25520, ~~such~~ *the* application shall include all of the following, to the extent known:

(1) The number, type, and energy source of electric generating units~~ which~~ *that* the site is proposed ultimately to accommodate and the maximum generating capacity for each unit.

(2) The projected installation schedule for each unit.

(3) The impact of the site, when fully developed, on the environment and public health and safety.

(4) The amount and sources of cooling water needed at the fully developed site.

(5) The general location and design of auxiliary facilities planned for each stage of development, including, but not limited to pipelines, transmission lines, waste storage and disposal facilites, switchyards, and cooling ponds, lakes, or towers.

(6) ~~Such other~~ *Other* information relating to the design, operation, and siting of the facility~~ as~~ *that* the~~ commission~~ *board* may by regulation require.

(b) *(1)* If an application is filed pursuant to subdivision (a) ~~which~~ *that* proposes a site to be approved~~ which~~ *that* will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction, the~~ commission~~ *board* may, in its decision pursuant to subdivision (a) of Section 25540.3, either certify only the initial facility or facilities proposed for initial construction or may certify the initial facility or facilities and find the site acceptable for additional generating capacity of the type tentatively proposed. The maximum allowable amount and type of such additional capacity shall be determined by the~~ commission~~ *board*.

~~If~~

(2) If the decision includes a finding that a particular site is suitable to accommodate a particular additional generating capacity, the site shall be designated a potential multiple facility site. The ~~commission~~ *board* may, in determining the acceptability of a potential multiple facility site, specify conditions or criteria necessary to ensure that future additional facilities will not exceed the limitations of the site.

SEC. 269. Section 25540.4 of the Public Resources Code is repealed.

~~25540.4. Notwithstanding any other provision of law:~~

~~(a) The decision of the commission on an application for an additional facility at a potential multiple facility site shall be issued within three months after the acceptance of the application or at~~

~~such later time as is mutually agreed upon by the commission and the applicant.~~

~~(b) In reviewing an application for an additional facility at a potential multiple facility site, the commission may, upon a showing of good cause, undertake a reconsideration of its prior determinations in the final report for the site pursuant to Section 25514 or its decision pursuant to Section 25523 based on current conditions and other reasonable alternatives to the proposed facility. Such reconsideration must be completed within seven months after acceptance of such application for an additional facility.~~

~~(c) The commission shall, pursuant to Section 21100.2, provide by resolution or order for completing and certifying the environmental impact report within the time limits established by subdivisions (a) and (b).~~

SEC. 270. Section 25540.5 of the Public Resources Code is amended to read:

25540.5. The ~~commission~~ *board* may, at the petition of a county ~~which~~ *that* has adopted a geothermal element for its general plan, approve an equivalent certification program ~~which~~ *that* delegates to that county full authority for the certification of all geothermal powerplants within ~~such~~ *that* county. Once approved by the ~~commission~~ *board*, the equivalent certification program shall replace and supersede the procedures for certification of all geothermal powerplants and related facilities, pursuant to Sections 25540 to 25540.4, inclusive, to be located within ~~such~~ *that* county. The ~~commission~~ *board* may, after public hearings, revoke the approved equivalent certification program of ~~such~~ *the* county if the ~~commission~~ *board* finds that the program does not comply with current ~~commission~~ *board* certification requirements. The equivalent certification program shall include, but not be limited to, provisions for all of the following:

(a) Certification of geothermal areas as potential multiple facility sites, if so applied for.

(b) Processing of applications in less than 12 months.

(c) Periodic review and updating of the program by the county as may be required by law and the ~~commission~~ *board*.

(d) Appeal procedures, including appeals to the ~~commission~~ *board* on substantive issues. In any such appeal on a substantive issue, the ~~commission~~ *board* shall determine whether the act or decision is supported by substantial evidence in the light of the whole record. The ~~commission~~ *board* shall determine, within 15 days of receipt of an appeal, whether the appeal has merit and whether action should be taken.

(e) Input and review by other relevant public agencies and members of the public.

(f) Public hearing procedures equivalent to those specified in Article 6 (commencing with Section 65350) of Chapter 3 of Title 7 of the Government Code.

SEC. 271. Section 25540.6 of the Public Resources Code is repealed.

~~25540.6. (a) Notwithstanding any other provision of law, no notice of intention is required, and the commission shall issue its final decision on the application, as specified in Section 25523, within 12 months after the filing of the application for certification of the powerplant and related facility or facilities, or at any later time as is mutually agreed by the commission and the applicant, for any of the following:~~

~~(1) A thermal powerplant which will employ cogeneration technology, a thermal powerplant that will employ natural gas-fired technology, or a solar thermal powerplant.~~

~~(2) A modification of an existing facility.~~

~~(3) A thermal powerplant which it is only technologically or economically feasible to site at or near the energy source.~~

~~(4) A thermal powerplant with a generating capacity of up to 100 megawatts.~~

~~(5) A thermal powerplant designed to develop or demonstrate technologies which have not previously been built or operated on a commercial scale. Such a research, development, or commercial demonstration project may include, but is not limited to, the use of renewable or alternative fuels, improvements in energy conversion efficiency, or the use of advanced pollution control systems. Such a facility may not exceed 300 megawatts unless the commission, by regulation, authorizes a greater capacity. Section 25524 does not apply to such a powerplant and related facility or facilities.~~

~~(b) Projects exempted from the notice of intention requirement pursuant to paragraph (1), (4), or (5) of subdivision (a) shall include, in the application for certification, a discussion of the applicant's site selection criteria, any alternative sites that the~~

~~applicant considered for the project, and the reasons why the applicant chose the proposed site. That discussion shall not be required for cogeneration projects at existing industrial sites. The commission may also accept an application for a noncogeneration project at an existing industrial site without requiring a discussion of site alternatives if the commission finds that the project has a strong relationship to the existing industrial site and that it is therefore reasonable not to analyze alternative sites for the project.~~

SEC. 272. Section 25541 of the Public Resources Code is amended to read:

25541. The ~~commission~~ *board* may exempt from this chapter thermal powerplants with a generating capacity of up to 100 megawatts and modifications to existing generating facilities that do not add capacity in excess of 100 megawatts, if the ~~commission~~ *board* finds that no substantial adverse impact on the environment or energy resources will result from the construction or operation of the proposed facility or from the modifications.

SEC. 273. Section 25541.1 of the Public Resources Code is amended to read:

25541.1. It is the intent of the Legislature to encourage the development of ~~thermal~~ powerplants using resource recovery (waste-to-energy) technology. Previously enacted incentives for the production of electrical energy from nonfossil fuels in commercially scaled projects have failed to produce the desired results. At the same time, the state faces a growing problem in the environmentally safe disposal of its solid waste. The creation of electricity by a ~~thermal~~ powerplant using resource recovery technology addresses both problems by doing all of the following:

(a) Generating electricity from a nonfossil fuel of an ample, growing supply.

(b) Conserving landfill space, thus reducing waste disposal costs.

(c) Avoiding the health hazards of burying garbage.

Furthermore, development of resource recovery facilities creates new construction jobs, as well as ongoing operating jobs, in the communities in which they are located.

SEC. 274. Section 25541.5 of the Public Resources Code is amended to read:

25541.5. (a) On or before January 1, 2001, the Secretary of the *Natural* Resources Agency shall review the regulatory program conducted pursuant to this chapter that was certified pursuant to subdivision ~~(k)~~ *(j)* of Section 15251 of Title 14 of the California Code of Regulations, to determine whether the regulatory program meets the criteria specified in Section 21080.5. If the Secretary of the *Natural* Resources Agency determines that the regulatory program meets those criteria, ~~the secretary~~ *he or she* shall continue the certification of the regulatory program.

(b) If the Secretary of the *Natural* Resources Agency continues the certification of the regulatory program, the ~~commission~~ *board* shall amend the regulatory program from time to time, as necessary to permit the ~~secretary~~ *Secretary of the Natural Resources Agency* to continue to certify the program.

(c) This section does not invalidate the certification of the regulatory program, as it existed on January 1, 2000, pending the review required by subdivision (a).

SEC. 275. Section 25542 of the Public Resources Code is amended to read:

25542. In the case of any site and related facility or facilities for which the provisions of this division do not apply, the exclusive power given to the ~~commission~~ *board* pursuant to Section 25500 to certify sites and related facilities shall not be in effect.

SEC. 276. Section 25543 of the Public Resources Code is amended to read:

25543. (a) It is the intent of the Legislature to improve the process of siting and licensing new thermal electric powerplants to ensure that these facilities can be sited in a timely manner, while protecting environmental quality and public participation in the siting process.

(b) ~~Notwithstanding Section 7550.5 of the Government Code, the commission~~ *The board* shall prepare a report to the Governor and the Legislature on or before March 31, 2000, that identifies administrative and statutory measures that, preserving environmental protections and public participation, would improve the ~~commission's~~ *board's* siting and licensing process for thermal powerplants of 50 megawatts and larger. The report shall include, but is not limited to, all of the following:

(1) An examination of potential process efficiencies associated with required hearings, site visits, and documents.

(2) A review of the impacts on both process efficiency and public participation of restrictions on communications between applicants, the public, and staff or decisionmakers.

(3) An assessment of means for improving coordination with the licensing activities of local jurisdictions and participation by other state agencies.

(4) An assessment of organizational structure issues including the adequacy of the amounts and organization of current technical and legal resources.

(5) Recommendations for administrative and statutory measures to improve the siting and licensing process.

(c) The ~~commission~~ *board* may immediately implement any administrative recommendations. Regulations, as identified in paragraph (5), adopted within 180 days of the effective date of this section may be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of the Government Code. For purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

SEC. 277. Section 25544 is added to the Public Resources Code, to read:

25544. (a) After one or more public hearings, the department may recommend, and the commission may designate, preferred areas for renewable energy generation development based on environmental sensitivity, the presence of infrastructure, and other relevant considerations. Designation of an area under this section shall be through a planning study, which will not have a legally binding effect on later activities, but will serve as guidance to developers and regulatory agencies in the selection of suitable sites for the development of renewable energy generation projects.

(b) Designation of an area under this section shall serve to identify a feasible region where one or more future renewable energy generation facilities can be built that are consistent with the state's needs and objectives as set forth in Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code.

(c) The department shall rank the renewable energy designation areas based on the following criteria:

(1) The least impact at the site when fully developed on the environment and public health and safety.

(2) Total capacity of generation projects that are in the Independent System Operator generation queue for each of the remote energy generation parks.

(3) Fuel diversity.

(4) Distance to the nearest possible Independent System Operator transmission bulk facility.

(5) Potential viable transmission route.

(6) Order of magnitude of transmission cost per megawatt for the designated remote energy generation parks to deliver renewable energy to the load centers.

(7) Realistic commercial operating dates for location-constrained projects and the transmission interconnection facilities.

(8) Potential impact on the transmission access charge.

(9) Potential operational, congestion, and reliability benefits of the facility.

(10) Stranded cost risk and potential impact.

(11) Alternative means of transmission access from the renewable energy designation area to the electrical transmission grid operated by the Independent System Operator.

(d) The department shall give priority to, and expedite the review of, applications for generating facilities that use a renewable resource as their primary fuel or power source and transmission lines proposed to access new or anticipated generating facilities.

(e) For the purposes of this section, "renewable" has the same meaning as set forth in Section 25741.

SEC. 278. Section 25545 is added to the Public Resources Code, to read:

25545. (a) Notwithstanding subdivision (a) of Section 25522, the department shall establish a process to issue the board's final decision within nine months after the filing of an application for any of the following:

(1) An electric transmission line that provides access to electric generation from renewable resources and would be constructed within a transmission corridor zone designated under Section 25331.

(2) A renewable energy powerplant that is constructed within an area designated by the board as a preferred area for renewable

energy development in the Desert Renewable Energy Conservation Plan prepared pursuant to the Governor's Executive Order S-14-08.

(3) A generating facility that uses a renewable resource as its primary fuel or power source and would be constructed within an area designated by the Renewable Energy Transmission Initiative as a renewable energy designation zone.

(b) For purposes of this section, "filing" has the same meaning as in Section 25522.

(c) For an application filed in a process established under this section, all local, regional, and state agencies that would have jurisdiction over the proposed electric transmission line or powerplant and related facilities, but for the exclusive jurisdiction of the secretary, shall provide their final comments, determinations, or opinions within 100 days after the filing of the application. The regional water quality control boards, as established pursuant to Chapter 4 (commencing with Section 13200) of Division 7 of the Water Code, shall retain jurisdiction over any applicable water quality standard that is incorporated into a final certification issued pursuant to this chapter.

(d) To implement this section, the board may adopt emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 2 of Division 3 of Title 2 of the Government Code. For purposes of that chapter, including without limitation, Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

SEC. 279. Section 25601 of the Public Resources Code is amended to read:

25601. The ~~commission~~ *department* shall develop and coordinate a program of research and development in energy supply, consumption, and conservation and the technology of siting facilities and shall give priority to those forms of research and development ~~which~~ *that* are of particular importance to the state, including, but not limited to, all of the following:

(a) Methods of energy conservation specified in Chapter 5 (commencing with Section 25400).

(b) Increased energy use efficiencies of existing thermal electric and hydroelectric powerplants and increased energy efficiencies in designs of thermal electric and hydroelectric powerplants.

(c) Expansion and accelerated development of alternative sources of energy, including geothermal and solar resources, including, but not limited to, participation in large-scale demonstrations of alternative energy systems sited in California in cooperation with federal agencies, regional compacts, other state governments, and other participants. For purposes of this subdivision, "participation" shall be defined as any of the following: (1) direct interest in a project, (2) research and development to ~~insure~~ *ensure* acceptable resolution of ~~environment~~ *environmental*, and other impacts of alternative energy systems, (3) research and development to improve siting and permitting methodology for alternative energy systems, (4) experiments utilizing the alternative energy systems, and (5) research and development of appropriate methods to ~~insure~~ *ensure* the widespread utilization of economically useful alternative energy systems. Large-scale demonstrations of alternative energy systems are exemplified by the 100KW $_e$ to 100MW $_e$ range demonstrations of solar, wind, and geothermal systems contemplated by federal agencies, regional compacts, other state governments, and other participants.

(d) Improved methods of construction, design, and operation of facilities to protect against seismic hazards.

(e) Improved methods of energy-demand forecasting.

(f) To accomplish the purposes of subdivision (c), an amount not more than one-half of the total state funds appropriated for the solar energy research and development program as proposed in the budget ~~prepared pursuant to Section 25604~~ shall be allocated for large-scale demonstration of alternative energy systems.

SEC. 280. Section 25602 of the Public Resources Code is amended to read:

25602. The ~~commission~~ *department* shall carry out technical assessment studies on all forms of energy and energy-related problems, in order to influence federal research and development priorities and to be informed on future energy options and their impacts, including, in addition to those problems specified in Section 25601, but not limited to, the following:

(a) Advanced nuclear powerplant concepts, fusion, and fuel cells.

(b) Total energy concepts.

(c) New technology related to coastal and offshore siting of facilities.

(d) Expanded use of wastewater as cooling water and other advances in powerplant cooling.

(e) Improved methods of power transmission to permit interstate and interregional transfer and exchange of bulk electric power.

(f) Measures to reduce wasteful and inefficient uses of energy.

(g) Shifts in transportation modes and changes in transportation technology in relation to implications for energy consumption.

(h) Methods of recycling, extraction, processing, fabricating, handling, or disposing of materials, especially materials which require large commitments of energy.

(i) Expanded recycling of materials and its effect on energy consumption.

(j) Implications of government subsidies and taxation and ratesetting policies.

(k) Utilization of waste heat.

(*l*) Use of hydrogen as an energy form.

(m) Use of agricultural products, municipal wastes, and organic refuse as an energy source.

~~Such~~

These assessments may also be conducted in order to determine which energy systems among competing technologies are most compatible with standards established pursuant to this division.

SEC. 281. Section 25603 of the Public Resources Code is amended to read:

25603. For research purposes, the ~~commission~~ *department* shall, in cooperation with other state agencies, participate in the design, construction, and operation of energy-conserving buildings using data developed pursuant to Section 25401, in order to demonstrate the economic and technical feasibility of ~~such~~ *those* designs.

SEC. 282. Section 25603.5 of the Public Resources Code is repealed.

~~25603.5. (a) Pursuant to the duties of the commission described in subdivision (a) of Section 25401 and Section 25603, the commission shall conduct a statewide architectural design~~

~~competition to select outstanding designs for new single-family and multifamily residential units which incorporate passive solar and other energy-conserving design features.~~

~~The purpose of the competition, to be known as the "State Solar Medallion Passive Design Competition", is to demonstrate the technical and economic feasibility of passive solar design for residential construction, to speed its commercialization, and to promote its use by developers in housing for moderate-income families in the state. The competition shall be carried out with the assistance and cooperation of the Office of the State Architect.~~

~~(b) The competition shall be conducted for each of the state's six regional climate zones. Each climate zone shall have the following four categories of competition:~~

~~(1) Single-family dwellings. The construction costs of these dwellings shall not exceed thirty-five thousand dollars ($35,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed fifty-five thousand dollars ($55,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.~~

~~(2) Single-family dwellings. The construction costs of these dwellings shall not exceed fifty-five thousand dollars ($55,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed eighty-five thousand dollars ($85,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.~~

~~(3) Multifamily housing units with a market price or rental value comparable to paragraph (1) of this subdivision.~~

~~(4) Multifamily housing units with a market price or rental value comparable to paragraph (2) of this subdivision.~~

~~(c) In order to qualify for the competition, entrants shall be a team composed of at least one member from each of the following categories:~~

~~(1) A building designer or architect.~~

~~(2) A builder, developer, or contractor.~~

~~(d) With submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the Solar Medallion or the first place prize in any category:~~

~~(1) To build five models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed more than 30 single-family detached units during the one-year period ending on the date of the award, or~~

~~(2) To build three models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed 30 or fewer single-family detached units during the one-year period ending on the date of the award, or~~

~~(3) To build one model of the winning design for all multifamily categories.~~

~~(4) To commence construction within 18 months of the announcement of awards.~~

~~(5) To permit the commission to install monitoring equipment for measuring energy conservation performance of the structure on all models constructed in compliance with paragraphs (1), (2), and (3) of this subdivision.~~

~~(6) To permit the commission to document, exhibit, and publicize the constructed designs.~~

~~All models of winning designs shall be built on the site or sites described in the submission or on an alternate site or sites with comparable features.~~

~~Cash awards to authors of the winning designs may be made prior to commencement of the agreed upon construction.~~

~~All winning designs in the competition shall become the property of the state and may be published and exhibited by the state after completion of competition.~~

~~(e) The judging panel for the competition shall consist of the following five jurors:~~

~~(1) One representative of the Office of the State Architect.~~

~~(2) One representative of the commission.~~

~~(3) One certificated architect.~~

~~(4) One representative of the state's lending institutions.~~

~~(5) One developer, builder, or contractor.~~

~~The nonagency members shall be appointed by the State Architect.~~

~~In recognition of the wide variation in construction costs statewide, and in order to ensure fair and equitable competition in all areas of the state, a cost index shall be used to determine different construction cost and market price requirements for each category of competition in the major metropolitan areas of the state. The construction cost and market price figures specified in paragraphs (1) and (2) of subdivision (b) shall be used as the upper limit values on which the index shall be based. Construction cost and market price figures reflecting the diversity in costs in different areas of the state shall be determined in relation to upper limit values specified in this section.~~

~~The cost index shall be prepared by the Office of the State Architect and shall be published in the competition program.~~

~~The evaluation shall take place in two stages, with an initial technical review by the commission staff. The staff shall submit to the judging panel a rigorous technical assessment of the anticipated energy conservation performance of all submissions. Final selection shall be made by the judging panel.~~

~~Designs submitted to the competition shall be judged on the extent to which they satisfy the following criteria:~~

~~(1) Use of passive solar and other energy conserving design features.~~

~~(2) Amount of energy savings achieved by the design.~~

~~(3) Adaptability of the design to widespread use.~~

~~(f) The commission shall be responsible for developing rules and procedures for the conduct of the competition and for the judging, which rules shall ensure anonymity of designs submitted prior to final awarding of prizes, shall ensure impartiality of the judging panel, and shall ensure uniform treatment of competitors.~~

~~In administering the competition, the commission shall accomplish the following tasks:~~

~~(1) Preparation of a competition program, including climatological data for each of the six regional climate zones.~~

~~(2) Distribution of competition information and ongoing publicity.~~

~~(3) Development of rules and procedures for competitors and judges.~~

~~(4) Preparation of a summary document for the competition, including a portfolio of winning designs and followup publicity.~~

~~(5) Instrumentation of winning dwellings constructed in accordance with requirements of this section; instrumentation for measurement of energy conservation performance of the units and ongoing data collection shall be provided by the commission pursuant to Section 25607.~~

~~For purposes of administering the competition, the commission shall contract with the Office of the State Architect for materials and services that cannot be performed by its staff.~~

~~(g) Cash awards to authors of the winning designs shall be made on the following basis:~~

~~Using the criteria in subdivision (e) of this section, the judging panel shall select, as follows:~~

~~(1) The most outstanding design statewide selected from among the first place winners in either of two single-family categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars ($5,000) in addition to the cash award specified in paragraph (3) of this subdivision.~~

~~(2) The most outstanding design statewide selected from among the first place winners in either of the two multifamily categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars ($5,000) in addition to the cash award specified in paragraph (3) of this subdivision.~~

~~(3) The first place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of five thousand dollars ($5,000).~~

~~(4) The second place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of two thousand dollars ($2,000).~~

SEC. 283. Section 25605 of the Public Resources Code is amended to read:

25605. On or before November 1, 1978, the ~~commission~~ *department, with the approval by the board,* shall develop and adopt, in cooperation with affected industry and consumer representatives, and after one or more public hearings, regulations governing solar devices. The regulations shall be designed to encourage the development and use of solar energy and to provide maximum information to the public concerning solar devices. The regulations may include, but need not be limited to, any or all of the following:

(a) Standards for testing, inspection, certification, sizing, and installation of solar devices.

(b) Provisions for the enforcement of the standards. ~~Such~~ *These* provisions may include any or all of the following:

(1) Procedures for the accreditation by the ~~commission~~ *department* of laboratories to test and certify solar devices.

(2) Requirements for onsite inspection of solar devices, including specifying methods for inspection, to determine compliance or noncompliance with the standards.

(3) Requirements for submission to the ~~commission~~ *department* of any data resulting from the testing and inspection of solar devices.

(4) Prohibitions on the sale of solar devices ~~which~~ *that* do not meet minimum requirements for safety and durability as established by the ~~commission~~ *board*.

(5) Dissemination of the results of the testing, inspection, and certification program to the public.

(c) In adopting the regulations, the ~~commission~~ *department* shall give due consideration to their effect on the cost of purchasing, installing, operating and maintaining solar devices. The ~~commission~~ *department* shall reassess the regulations as often as it deems necessary, based upon the value of the regulations in terms of benefits and disadvantages to the widespread adoption of solar energy systems and the need to encourage creativity and innovative adaptations of solar energy. The ~~commission~~ *department* may amend or repeal these regulations based on such reassessment.

(d) Under no circumstances may the ~~commission~~ *department or the board* preclude any person from developing, installing, or operating a solar device on his or her own property.

(e) Any violation of any regulation adopted by the ~~commission~~ *board* pursuant to this section may be enjoined in the same manner as is prescribed in Chapter 10 (commencing with Section 25900) of this division for enjoining a violation of this division.

SEC. 284. Section 25605.5 of the Public Resources Code is amended to read:

25605.5. Standards adopted by the ~~commission~~ *board* pursuant to Section 25605, which are building standards as defined in Section 25488.5, shall be submitted to the State Building Standards Commission for approval pursuant to, and are governed by, the State Building Standards Law (Part 2.5 (commencing with Section

18901) of Division 13 of the Health and Safety Code). Building standards adopted by the ~~commission~~ *board* and published in the State Building Standards Code shall comply with, and be enforced as provided in, Section 25605.

SEC. 285. Section 25608 of the Public Resources Code is amended to read:

25608. The ~~commission~~ *department* shall confer with officials of federal agencies, including the National Aeronautics and Space Administration, the National Institute of Standards and Technology, the Department of Energy, and the Department of Housing and Urban Development, to coordinate the adoption of regulations pursuant to Sections 25603 and 25605.

SEC. 286. Section 25609 of the Public Resources Code is amended to read:

25609. The ~~commission~~ *board* may, in adopting regulations pursuant to this chapter, specify the date when the regulations shall take effect. The ~~commission~~ *board* may specify different dates for different regulations.

SEC. 287. Section 25609.5 of the Public Resources Code is amended to read:

25609.5. The effective dates of building standards adopted by the ~~commission~~ *board* pursuant to Section 25609 are subject to approval pursuant to the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of Part 13 of the Health and Safety Code.

SEC. 288. Section 25610 of the Public Resources Code is amended to read:

25610. For purposes of carrying out the provisions of this chapter, the ~~commission~~ *department* may contract with any person for materials and services that cannot be performed by its staff or other state agencies, and may apply for federal grants or any other funding.

SEC. 289. Section 25616 of the Public Resources Code is amended to read:

25616. (a) It is the intent of the Legislature to encourage local agencies to expeditiously review permit applications to site energy projects, and to encourage energy project developers to consider all cost-effective and environmentally superior alternatives that achieve their project objectives.

(b) Subject to the availability of funds appropriated therefor, the ~~commission~~ *department* shall provide technical assistance and grants-in-aid to assist local agencies to do either or both of the following:

(1) Site energy production or transmission projects ~~which~~ *that* are not otherwise subject to ~~the provisions of~~ Chapter 6 (commencing with Section 25500).

(2) Integrate into their planning processes, and incorporate into their general plans, methods to achieve cost-effective energy efficiency.

(c) The ~~commission~~ *department* shall provide assistance at the request of local agencies ~~and shall coordinate that assistance with the assistance provided by the Department of Permit Assistance, created pursuant to Section 15399.50 of the Government Code~~.

(d) As used in this section, an energy project is any project designed to produce, convert, or transmit energy as one of its primary functions.

SEC. 290. Section 25617 of the Public Resources Code is amended to read:

25617. (a) It is the intent of the Legislature to preserve diversity of energy resources, including diversity of resources used in electric generation facilities, industrial and commercial applications, and transportation.

(b) The ~~commission~~ *department* shall, within the limits of available funds, provide technical assistance and support for the development of petroleum diesel fuels ~~which~~ *that* are as clean or cleaner than alternative clean fuels and clean diesel engines. That technical assistance and support may include the creation of research, development, and demonstration programs.

SEC. 291. Section 25618 of the Public Resources Code is amended to read:

25618. (a) The ~~commission~~ *department* shall facilitate development and commercialization of ultra low- and zero-emission electric vehicles and advanced battery technologies, as well as development of an infrastructure to support maintenance and fueling of those vehicles in California. Facilitating commercialization of ultra low- and zero-emission electric vehicles in California shall include, but not be limited to, the following:

(1) The ~~commission~~ *department* may, in cooperation with county, regional, and city governments, the state's public and

private utilities, and the private business sector, develop plans for accelerating the introduction and use of ultra low- and zero-emission electric vehicles throughout California's air quality nonattainment areas, and for accelerating the development and implementation of the necessary infrastructure to support the planned use of those vehicles in California. These plans shall be consistent with, but not limited to, the criteria for similar efforts contained in federal loan, grant, or matching fund projects.

(2) In coordination with other state agencies, the ~~commission~~ *department* shall seek to maximize the state's use of federal programs, loans, and matching funds available to states for ultra low- and zero-emission electric vehicle development and demonstration programs, and infrastructure development projects.

(b) Priority for implementing demonstration projects under this section shall be directed toward those areas of the state currently in a nonattainment status with federal and state air quality regulations.

SEC. 292. Section 25630 of the Public Resources Code is amended to read:

25630. (a) The ~~commission~~ *department* shall establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

(b) Loan repayments, interest, and royalties shall be deposited in the Energy Technologies Research, Development, and Demonstration Account. The interest rate shall be based on surveys of existing financial markets and at rates not lower than the Pooled Money Investment Account.

SEC. 293. Section 25650 of the Public Resources Code is amended to read:

25650. (a) All funds from loan repayments and interest that become due and payable for loans made by the ~~commission~~ *department* pursuant to an agriculture energy assistance program shall be deposited in the Energy Technologies Research, Development, and Demonstration Account, and shall be available for loans and technical assistance pursuant to this section, upon appropriation in the Budget Act. Up to 20 percent of the annual appropriation may be available for technical assistance.

(b) Loans made pursuant to this section shall be for the purchase of equipment and services for agriculture energy efficiency and development demonstration projects, including, but not limited to, production of methane or ethanol, use of wind, photovoltaics, and other sources of energy for irrigation pumping, application of load management conservation techniques, improvements in water pumping and pressurization techniques, and conservation tillage techniques.

(c) The loans shall contain terms that provide for a repayment period of not more than seven years and for interest at a rate that is not less than 2 percent below the rate earned by moneys in the Pooled Money Investment Account.

SEC. 294. Section 25678 of the Public Resources Code is amended to read:

25678. The ~~commission~~ *department, by action of the board,* shall establish a grant program which provides a forty cent ($0.40) per gallon production incentive for liquid fuels fermented in this state from biomass and biomass-derived resources produced in this state. Eligible liquid fuels include, but are not limited to, ethanol, methanol, and vegetable oils. Eligible biomass resources include, but are not limited to, agricultural products and byproducts, forestry products and byproducts, and industrial wastes. The ~~commission~~ *board* shall adopt rules and regulations necessary to implement the program. Prior to determining an applicant eligible for participation in the production incentive program, the ~~commission~~ *board* shall find, among other things, that the production techniques employed will lead to a net increase in the amount of energy available for consumption.

SEC. 295. Section 25679 of the Public Resources Code is amended to read:

25679. Applicants for a grant under this chapter shall submit an application on a form prescribed by the ~~commission which~~ *department that* is responsible for administration of the program.

SEC. 296. Section 25696 of the Public Resources Code is amended to read:

25696. The ~~commission~~ *department* may assist California-based energy technology and energy conservation firms to export their technologies, products, and services to international markets.

The ~~commission~~ *department* may do all of the following:

(a) Conduct a technical assistance program to help California energy companies improve export opportunities and enhance foreign buyers' awareness of and access to energy technologies and services offered by California-based companies. Technical assistance activities may include, but are not limited to, an energy technology export information clearinghouse, a referral service, a trade lead service consulting services for financing, market evaluation, and legal counseling, and information seminars.

(b) Perform research studies and solicit technical advice to identify international market opportunities.

(c) Assist California energy companies to evaluate project or site-specific energy needs of international markets.

(d) Assist California energy companies to identify and address international trade barriers restricting energy technology exports, including unfair trade practices and discriminatory trade laws.

(e) Develop promotional materials in conjunction with California energy companies to expand energy technology exports.

(f) Establish technical exchange programs to increase foreign buyers' awareness of suitable energy technology uses.

(g) Prepare equipment performance information to enhance potential export opportunities.

(h) Coordinate activities with state, federal, and international donor agencies to take advantage of trade promotion and financial assistance efforts offered.

SEC. 297. Section 25696.5 of the Public Resources Code is amended to read:

25696.5. (a) Every California-based energy technology and energy conservation firm awarded direct financial assistance pursuant to Section 25696 shall reimburse the ~~commission~~ *department* for that assistance, when both of the following conditions have been met:

(1) The assistance was substantial and essential for the completion of a specific identifiable project.

(2) The resulting project is producing revenues.

(b) All moneys appropriated for purposes of this chapter and all moneys received by the ~~commission~~ *department* as reimbursement under this section shall be deposited in the Energy Resources Programs Account and shall be available, when appropriated by the Legislature, for the purposes of this chapter.

SEC. 298. Section 25697 of the Public Resources Code is amended to read:

25697. The ~~commission~~ *department* shall consult with the California State World Trade Commission with respect to conducting overseas trade missions, trade shows, and trade exhibits. Consultation may include interagency agreements, cosponsorship, and memoranda of understanding for joint overseas trade activities.

SEC. 299. Section 25700 of the Public Resources Code is amended to read:

25700. The ~~commission~~ *department* shall, in accordance with the provisions of this chapter, develop contingency plans to deal with possible shortages of electrical energy or fuel supplies to protect public health, safety, and welfare.

SEC. 300. Section 25701 of the Public Resources Code is amended to read:

25701. (a) Within six months after the effective date of this division, each electric utility, gas utility, and fuel wholesaler or manufacturer in the state shall prepare and submit to the ~~commission~~ *department* a proposed emergency load curtailment plan or emergency energy supply distribution plan setting forth proposals for identifying priority loads or users in the event of a sudden and serious shortage of fuels or interruption in the generation of electricity.

(b) The ~~commission~~ *department* shall encourage electric utilities to cooperate in joint preparation of an emergency load curtailment plan or emergency energy *supply* distribution plan. If ~~such a~~ *this* cooperative plan is developed between two or more electric utilities, ~~such~~ *the* utilities may submit ~~such~~ *the* joint plans to the ~~commission~~ *department* in place of individual plans required by subdivision (a) of this section.

(c) The ~~commission~~ *department* shall collect from all relevant governmental agencies, including, but not limited to, the Public Utilities Commission and the Office of Emergency Services, any existing contingency plans for dealing with sudden energy shortages or information related thereto.

SEC. 301. Section 25702 of the Public Resources Code is amended to read:

25702. The ~~commission~~ *department* shall, after one or more public hearings, review the emergency load curtailment program plans or emergency energy supply distribution plans submitted pursuant to Section 25701, and, ~~within one year after the effective date of this division~~ *on or before January 6, 1975,* the ~~commission~~ *department* shall approve and recommend to the Governor and the Legislature plans for emergency load curtailment and energy supply distribution in the event of a sudden energy shortage. ~~Such~~ *Those* plans shall be based upon the plans presented by the electric utilities, gas utilities, and fuel wholesalers or manufacturers, information provided by other governmental agencies, independent analysis and study by the ~~commission~~ *department* and information provided at the hearing or hearings. ~~Such~~ *Those* plans shall provide for the provision of essential services, the protection of public health, safety, and welfare, and the maintenance of a sound basic state economy. Provision shall be made in such plans to eliminate wasteful, uneconomic, and unnecessary uses of energy in times of shortages and to differentiate curtailment of energy consumption by users on the basis of ability to accommodate such curtailments. ~~Such~~ *Those* plans shall also specify the authority of and recommend the appropriate actions of state and local governmental agencies in dealing with energy shortages.

SEC. 302. Section 25703 of the Public Resources Code is amended to read:

25703. Within four months after the date of certification of any new facility, the ~~commission~~ *department* shall review and revise the recommended plans based on additional new capacity attributed to ~~any such~~ *that* facility. The ~~commission~~ *department* shall, after one or more public hearings, review the plans at least every five years from the approval of the initial plan as specified in Section 25702.

SEC. 303. Section 25704 of the Public Resources Code is amended to read:

25704. The ~~commission~~ *department* shall carry out studies to determine if potential serious shortages of electrical, natural gas, or other sources of energy are likely to occur and shall make recommendations to the Governor and the Legislature concerning administrative and legislative actions required to avert possible energy supply emergencies or serious fuel shortages, including, but not limited to, energy conservation and energy development measures, to grant authority to specific governmental agencies or officers to take actions in the event of a sudden energy shortage, and to clarify and coordinate existing responsibilities for energy emergency actions.

SEC. 304. Section 25705 of the Public Resources Code is amended to read:

25705. *(a)* If the ~~commission~~ *department* determines that all reasonable conservation, allocation, and service restriction measures may not alleviate an energy supply emergency, and upon a declaration by the Governor or by an act of the Legislature that a threat to public health, safety, and welfare exists and requires immediate action, the ~~commission~~ *department* shall authorize the construction and use of generating facilities under ~~such~~ terms and conditions as specified by the ~~commission~~ *department* to protect the public interest.

~~Within~~

(b) Within 60 days after the authorization of construction and use of ~~such~~ *the* generating facilities, the ~~commission~~ *department* shall issue a report detailing the full nature, extent, and estimated duration of the emergency situation and making recommendations to the Governor and the Legislature for further energy conservation and energy supply measures to alleviate the emergency situation as alternatives to use of ~~such~~ *the* generating facilities.

SEC. 305. Section 25720 of the Public Resources Code is amended to read:

25720. (a) By January 31, 2002, the ~~commission~~ *department* shall examine the feasibility, including possible costs and benefits to consumers and impacts on fuel prices for the general public, of operating a strategic fuel reserve to insulate California consumers and businesses from substantial short-term price increases arising from refinery outages and other similar supply interruptions. In evaluating the potential operation of a strategic fuel reserve, the ~~commission~~ *department* shall consult with other state agencies, including, but not limited to, the State Air Resources Board.

(b) The ~~commission~~ *department* shall examine and recommend an appropriate level of reserves of fuel, but in no event may the reserve be less than the amount of refined fuel that the ~~commission~~ *department* estimates could be produced by the largest California refiner over a two week period. In making this examination and recommendation, the ~~commission~~ *department* shall take into account all of the following:

(1) Inventories of California-quality fuels or fuel components reasonably available to the California market.

(2) Current and historic levels of inventory of fuels.

(3) The availability and cost of storage of fuels.

(4) The potential for future supply interruptions, price spikes, and the costs thereof to California consumers and businesses.

(c) The ~~commission~~ *department* shall evaluate a mechanism to release fuel from the reserve that permits any customer to contract at any time for the delivery of fuel from the reserve in exchange for an equal amount of fuel that meets California specifications and is produced from a source outside of California that the customer agrees to deliver back to the reserve within a time period to be established by the ~~commission~~ *department*, but not longer than six weeks.

(d) The ~~commission~~ *department* shall evaluate reserve storage space from existing facilities.

(e) The ~~commission~~ *department* shall evaluate a reserve operated by an independent operator that specializes in purchasing and storing fuel, and is selected through competitive bidding.

(f) (1) Not later than January 31, 2002, the ~~commission~~ *department* and the State Air Resources Board, in consultation with the other state and local agencies the ~~commission~~ *department* deems necessary, shall develop and adopt recommendations for the Governor and Legislature on a California Strategy to Reduce Petroleum Dependence.

(2) The strategy shall include a base case forecast by the ~~commission~~ *department* of gasoline, diesel, and petroleum consumption in years 2010 and 2020 based on current best estimates of economic and population growth, petroleum base fuel supply and availability, vehicle efficiency, and utilization of alternative fuels and advanced transportation technologies.

(3) The strategy shall include recommended statewide goals for reductions in the rate of growth of gasoline and diesel fuel consumption and increased transportation energy efficiency and utilization of nonpetroleum based fuels and advanced transportation technologies, including alternative fueled vehicles, hybrid vehicles, and high fuel efficiency vehicles.

(g) The studies required by this section shall be conducted in conjunction with any other studies required by acts enacted during the 2000 portion of the 1999–2000 Regular Session dealing with gasoline prices.

SEC. 306. Section 25721 of the Public Resources Code is amended to read:

25721. The ~~commission~~ *department* shall report its findings and recommendations *for the purposes of Section 25720* to the Governor, the Legislature, and the Attorney General by January 31, 2002. If the ~~commission~~ *department* finds that it would be feasible to operate a strategic gas reserve to insulate California consumers and businesses from substantial, short-term price increases arising from refinery outages or other similar supply interruptions, the ~~commission~~ *department* shall request specific statutory authority and funding for establishment of a reserve.

SEC. 307. Section 25722 of the Public Resources Code is amended to read:

25722. (a) On or before January 31, 2003, the ~~commission~~ *department*, the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the ~~commission~~ *department*, the ~~department~~ *Department of General Services*, and the state board deem necessary, shall develop and adopt fuel-efficiency specifications governing the purchase by the state of motor vehicles and replacement tires that, on an annual basis, will reduce petroleum consumption of the state vehicle fleet to the maximum extent practicable and cost-effective.

(b) In developing the specifications, the ~~commission~~ *department* and the ~~department~~ *Department of General Services* shall jointly conduct a study to examine state vehicle purchasing patterns, including the purchase of after market tires, and to analyze the costs and benefits of reducing the energy consumption of the state vehicle fleet by no less than 10 percent on or before January 1, 2005.

(c) The study shall include an analysis of all of the following topics:

(1) Use of alternative fuels.

(2) Use of fuel-efficient vehicles.

(3) Costs and benefits of decreasing the size of the state vehicle fleet.

(4) Reduction in vehicle trips and increase in use of alternative means of transportation.

(5) Improved vehicle maintenance.

(6) Costs and benefits of using fuel-efficient tires relative to using retreaded tires, as described in the Retreaded Tire Program (Chapter 7 (commencing with Section 42400) of Part 3 of Division 30 ~~of the Public Resources Code~~).

(7) The costs and benefits of purchasing high fuel efficiency gasoline vehicles, including hybrid electric vehicles, instead of flexible fuel vehicles.

(d) On or before January 31, 2003, and annually thereafter, the ~~commission~~ *department*, the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the ~~commission~~ *department*, the ~~department~~ *Department of General Services*, and the state board deem necessary, shall develop and adopt air pollution emission specifications governing the purchase by the state of passenger cars and light-duty trucks that meet or exceed California's Ultra-Low Emission Vehicle (ULEV) standards for exhaust emissions (13 Cal. Code Regs. 1960.1).

(e) If the study described in subdivision (b) determines that lower cost measures exist that deliver petroleum reductions equivalent to applicable federal requirements governing the state purchase of passenger cars and light-duty trucks, the state shall pursue a waiver from those federal requirements.

SEC. 308. Section 25722.5 of the Public Resources Code is amended to read:

25722.5. (a) In order to achieve the policy objectives set forth in Sections 25000.5 and 25722, the Department of General Services, in consultation with the ~~commission~~ *department* and the State Air Resources Board, shall develop and adopt specifications and standards for all passenger cars and light-duty trucks that are purchased or leased on behalf of, or by, state offices, agencies, and departments. An authorized emergency vehicle, as defined in Section 165 of the Vehicle Code, that is equipped with emergency lamps or lights described in Section 25252 of the Vehicle Code is exempt from the requirements of this section. The specifications and standards shall include the following:

(1) Minimum air pollution emission specifications that meet or exceed California's Ultra-Low Emission Vehicle II (ULEV II) standards for exhaust emissions (13 Cal. Code Regs. 1961). These specifications shall apply on January 1, 2006, for passenger cars and on January 1, 2010, for light-duty trucks.

(2) Notwithstanding any other provision of law, the utilization of procurement policies that enable the Department of General Services to do all of the following:

(A) Evaluate and score emissions, fuel costs, and fuel economy in addition to capital cost to enable the Department of General Services to choose the vehicle with the lowest life-cycle cost when awarding a state vehicle procurement contract.

(B) Maximize the purchase or lease of hybrid or "Best in Class" vehicles that are substantially more fuel efficient than the class average.

(C) Maximize the purchase or lease of available vehicles that meet or exceed California's Super Ultra-Low Emission Vehicle (SULEV) passenger car standards for exhaust emissions.

(D) Maximize the purchase or lease of alternative fuel vehicles.

(3) In order to discourage the unnecessary purchase or leasing of a sport utility vehicle and a four-wheel drive truck, a requirement that each state office, agency, or department seeking to purchase or lease that vehicle, demonstrate to the satisfaction of the Director of General Services or to the entity that purchases or leases vehicles for that office, agency, or department, that the vehicle is required to perform an essential function of the office, agency, or department. If it is so demonstrated, priority consideration shall be given to the purchase or lease of an alternative fuel or hybrid sports utility vehicle or four-wheel drive vehicle.

(b) The specifications and standards developed and adopted pursuant to subdivision (a) do not apply upon the development and implementation of the method, criteria, and procedure described in Section 25722.6.

(c) Each state office, agency, and department shall review its vehicle fleet and, upon finding that it is fiscally prudent, cost effective, or otherwise in the public interest to do so, shall dispose of nonessential sport utility vehicles and four-wheel drive trucks in its fleet and replace these vehicles with more fuel-efficient passenger cars and trucks.

(d) To the maximum extent practicable, each state office, agency, and department that has bifuel natural gas, bifuel propane, and flex fuel vehicles in its vehicle fleet shall use the respective alternative fuel in those vehicles.

(e) The Director of General Services shall compile annually and maintain information on the nature of vehicles that are owned or leased by the state, including, but not limited to, all of the following:

(1) The number of passenger-type motor vehicles purchased or leased during the year, and the number owned or leased as of December 31 of each year.

(2) The number of sport utility vehicles and four-wheel drive trucks purchased or leased by the state during the year, and the number owned or leased as of December 31 of each year.

(3) The number of alternatively fueled vehicles and hybrid vehicles purchased or leased by the state during the year, and the total number owned or leased as of December 31 of each year and their location.

(4) The locations of the alternative fuel pumps available for those vehicles.

(5) The justification provided for all sport utility vehicles and four-wheel drive trucks purchased or leased by the state and the specific office, department, or agency responsible for the purchase or lease.

(6) The number of sport utility vehicles and four-wheel drive trucks purchased or leased by the state during the year, and the number owned or leased as of December 31 of each year that are alternative fuel or hybrid vehicles.

(7) The number of light-duty trucks disposed of under subdivision (c).

(8) The total dollars spent by the state on passenger-type vehicle purchases and leases, categorized by sport utility vehicle and nonsport utility vehicle, and within each of those categories, by alternative fuel, hybrid, and other.

(9) The total annual consumption of gasoline and diesel fuel used by the state fleet.

(10) The total annual consumption of alternative fuels.

(11) On December 31, 2009, and annually thereafter, the Director of General Services shall also compile the total annual vehicle miles traveled by vehicles in the state fleet.

(f) Each state office, agency, and department shall cooperate with the Department of General Services' data requests in order that the department may compile and maintain the information required in subdivision (e).

(g) As soon as practicable, but no later than 12 months after receiving the data, the information compiled and maintained under subdivision (e) and a list of those state offices, agencies, and departments that are not in compliance with subdivision (f) shall be made available to the public on the Department of General Services' Internet Web site.

(h) Beginning July 1, 2009, and every three years thereafter, the Director of General Services shall report to the Legislature and the Governor the information compiled and maintained pursuant to subdivision (e).

(i) Pursuant to Article IX of the California Constitution, this section shall not apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make this section applicable.

SEC. 309. Section 25722.6 of the Public Resources Code is amended to read:

25722.6. (a) On or before December 31, 2008, the Department of General Services, in conjunction with the State Air Resources Board and the ~~commission~~ *department*, shall amend the existing "Enhanced Efficiency Costing Methodology for Passenger Cars and Light-Duty Vehicles" to rank the environmental and energy benefits, and costs of motor vehicles for potential procurement by state and local governments. The vehicle rankings shall include both of the following criteria:

(1) The reduction in greenhouse gas emissions, air pollutant emissions, and petroleum use on a full fuel-cycle basis, to the extent possible, based on existing data available to the State Air Resources Board, the ~~commission~~ *department*, or other reliable sources, including the California Strategy to Reduce Petroleum Dependence developed pursuant to subdivision (f) of Section 25720 and the state plan to increase the use of alternative transportation fuels developed pursuant to Section 43866 of the Health and Safety Code.

(2) The life-cycle costs of the vehicle and fuel, including maintenance.

(b) On or before December 31, 2008, the Department of General Services shall revise its procedures for the procurement of state and local government vehicles based upon the necessary performance specifications of the vehicles to perform the required work or tasks of the vehicles in the fleet. The Department of General Services shall establish vehicle "classes" depending upon the required work or tasks and the necessary performance specifications.

(c) On or before July 1, 2009, for the purpose of state fleet procurement, both of the following shall apply:

(1) Available vehicles in individual classes shall be ranked for purchase or lease using the method and criteria developed in subdivision (a).

(2) (A) Vehicles shall be procured for use in the state fleet that meet all requirements established by the federal government, including, but not limited to, the federal Energy Policy Act of 1992, Public Law 102-486, if applicable, and that have been ranked best in their class as determined by the evaluation in subdivision (a).

(B) If fueling infrastructure, for the fuel used to rank a vehicle best in class, is not available, or planned to be available within two years, the Department of General Services shall procure the vehicle ranked next best in class for which fueling infrastructure is or will be available.

(d) The Department of General Services shall evaluate vehicles for potential addition to the state and local fleets, as described in this section, on an annual basis, reflecting annual new vehicle availability.

(e) A vehicle capable of using alternative fuels shall be operated on those fuels to the maximum extent practicable unless alternative fuels are not readily available or other factors exist that may prevent the use of those fuels in the area in which the vehicle is used.

(f) The Department of General Services shall do both of the following:

(1) During the normal course of coordination and contracting with nearby fueling stations, provide information related to the alternative fuel vehicles in the state fleet and request the stations to provide a fuel supply to meet that demand.

(2) When replacing, retrofitting, or installing a fueling tank or infrastructure at a facility that fuels state vehicles, the Department of General Services shall consider requesting competitive bids for alternative fuel infrastructure that would meet the needs of vehicles used, or planned to be used, in that facility.

(g) Authorized emergency vehicles as defined in Section 165 of the Vehicle Code, that are equipped with emergency lamps or lights described in Section 25252 of the Vehicle Code, are exempt from the requirements of this section.

(h) Each state office, agency, or department seeking to purchase or lease a sport utility vehicle or four-wheel drive vehicle shall demonstrate to the satisfaction of the Director of General Services or the entity that purchases or leases vehicles that the vehicle is required to perform an essential function of the office, agency, or department. If it is so demonstrated, priority consideration shall be given to the purchase or lease of an alternative fuel or hybrid sports utility vehicle or four-wheel drive vehicle.

(i) Pursuant to Article IX of the California Constitution, this section shall not apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make this section applicable.

SEC. 310. Section 25722.7 of the Public Resources Code is amended to read:

25722.7. (a) In order to further achieve the policy objectives set forth in Sections 25000.5, 25722, and 25722.5, on or before June 1, 2007, the Department of General Services in consultation with the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* shall establish a minimum fuel economy standard that is above the standard, as it exists on January 1, 2007, established pursuant to Section 3620.1 of the State Administrative Manual, for the purchase of passenger vehicles and light duty trucks for the state fleet that are powered solely by internal combustion engines utilizing fossil fuels.

(b) On or after January 1, 2008, all new state fleet purchases of passenger vehicles and light duty trucks powered solely by internal combustion engines utilizing fossil fuels, by the Department of General Services and any other state entities shall meet the fuel economy standard established under subdivision (a).

(c) Authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, and vehicles identified in paragraph (3) of subdivision (a) of Section 25722.5 are exempt from this section.

(d) Vehicles purchased, that are modified for the following purposes, are exempt from this section.

(1) To provide services by a state entity to an individual with a disability or a developmental disability, as defined under the statutes or regulations governing that state entity.

(2) As a reasonable accommodation for the known physical or mental disability, as defined in Section 12926 of the Government Code, of an employee.

(e) For purposes of this section, “state entities” includes all state departments, boards, commissions, programs, and other organizational units of the executive, legislative, and judicial branches of state government, the California Community Colleges, the California State University, and the University of California.

(f) ~~No provision of this~~ *This* section shall *not* apply to the University of California except to the extent that the Regents of the University of California, by appropriate resolution, make that provision applicable.

SEC. 311. Section 25723 of the Public Resources Code is amended to read:

25723. On or before January 31, 2003, the ~~commission~~ *department*, in consultation with any other state agency that the ~~commission~~ *department* deems necessary, shall develop and adopt recommendations for consideration by the Governor and the Legislature of a California State Fuel-Efficient Tire Program. The ~~commission~~ *department* shall make recommendations on all of the following items:

(a) Establishing a test procedure for measuring tire fuel efficiency.

(b) Development of a ~~data base~~ *database* of fuel efficiency of existing tires in order to establish an accurate baseline of tire efficiency.

(c) A rating system for tires that provides consumers with information on the fuel efficiency of individual tire models.

(d) A consumer-friendly system to disseminate tire fuel-efficiency information as broadly as possible. The ~~commission~~ *department* shall consider labeling, *Internet* Web site listing, printed fuel economy guide booklets, and mandatory requirements for tire retailers to provide fuel-efficiency information.

(e) A study to determine the safety implications, if any, of different policies to promote fuel efficient replacement tires in the consumer market.

(f) A mandatory fuel-efficiency standard for all after market tires sold in California.

(g) Consumer incentive programs that would offer a rebate to purchasers of replacement tires that are more fuel efficient than the average replacement tire.

SEC. 312. Section 25740.5 of the Public Resources Code is amended to read:

25740.5. (a) The ~~commission~~ *department, by action of the board*, shall optimize public investment and ensure that the most cost-effective and efficient investments in renewable energy resources are vigorously pursued.

(b) The ~~commission's~~ *department's* long-term goal shall be a fully competitive and self-sustaining supply of electricity generated from renewable sources.

(c) The program objective shall be to increase, in the near term, the quantity of California's electricity generated by in-state renewable electricity generation facilities, while protecting system reliability, fostering resource diversity, and obtaining the greatest environmental benefits for California residents.

(d) An additional objective of the program shall be to identify and support emerging renewable technologies in distributed generation applications that have the greatest near-term commercial promise and that merit targeted assistance.

(e) The Legislature recommends allocations among all of the following:

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

(2) Customer education.

(3) Production incentives for reducing fuel costs, that are confirmed to the satisfaction of the ~~commission~~ *department*, at solid fuel biomass energy facilities in order to provide demonstrable environmental and public benefits, including improved air quality.

(4) Solar thermal generating resources that enhance the environmental value or reliability of the electrical system and that require financial assistance to remain economically viable, as determined by the ~~commission~~ *department, by action of the board*. The ~~commission~~ *department, by action of the board*, may require financial disclosure from applicants for purposes of this paragraph.

(5) Specified fuel cell technologies, if the ~~commission~~ *department* makes all of the following findings:

(A) The specified technologies have similar or better air pollutant characteristics than renewable technologies in the report made pursuant to Section 25748.

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

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

(6) Existing wind-generating resources, if the ~~commission~~ *department, by action of the board,* finds that the existing wind-generating resources are a cost-effective source of reliable energy and environmental benefits compared with other in-state renewable electricity generation facilities, and that the existing wind-generating resources require financial assistance to remain economically viable. The ~~commission~~ *department* may require financial disclosure from applicants for the purposes of this paragraph.

(f) Notwithstanding any other provision of law, moneys collected for renewable energy pursuant to Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code shall be transferred to the Renewable Resource Trust Fund. Moneys collected between January 1, 2007, and January 1, 2012, shall be used for the purposes specified in this chapter.

SEC. 313. Section 25741 of the Public Resources Code is amended to read:

25741. As used in this chapter, the following terms have the following ~~meaning~~ *meanings*:

(a) "Delivered" and "delivery" mean the electricity output of an in-state renewable electricity generation facility that is used to serve end-use retail customers located within the state. Subject to verification by the accounting system established by the ~~commission~~ *department* pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code, electricity shall be deemed delivered if it is either generated at a location within the state, or is scheduled for consumption by California end-use retail customers. Subject to criteria adopted by the ~~commission~~ *department*, electricity generated by an eligible renewable energy resource may be considered "delivered" regardless of whether the electricity is generated at a different time from consumption by a California end-use customer.

(b) "In-state renewable electricity generation facility" means a facility that meets all of the following criteria:

(1) The facility uses biomass, solar thermal, photovoltaic, wind, geothermal, fuel cells using renewable fuels, small hydroelectric generation of 30 megawatts or less, digester gas, municipal solid waste conversion, landfill gas, ocean wave, ocean thermal, or tidal current, and any additions or enhancements to the facility using that technology.

(2) The facility satisfies one of the following requirements:

(A) The facility is located in the state or near the border of the state with the first point of connection to the transmission network within this state and electricity produced by the facility is delivered to an in-state location.

(B) The facility has its first point of interconnection to the transmission network outside the state and satisfies all of the following requirements:

(i) It is connected to the transmission network within the Western Electricity Coordinating Council (WECC) service territory.

(ii) It commences initial commercial operation after January 1, 2005.

(iii) Electricity produced by the facility is delivered to an in-state location.

(iv) It will not cause or contribute to any violation of a California environmental quality standard or requirement.

(v) If the facility is outside of the United States, it is developed and operated in a manner that is as protective of the environment as a similar facility located in the state.

(vi) It participates in the accounting system to verify compliance with the renewables portfolio standard by retail sellers, once established by the ~~Energy Commission~~ *department* pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.

(C) The facility meets the requirements of clauses (i), (iii), (iv), (v), and (vi) in subparagraph (B), but does not meet the requirements of clause (ii) because it commences initial operation prior to January 1, 2005, if the facility satisfies either of the following requirements:

(i) The electricity is from incremental generation resulting from expansion or repowering of the facility.

(ii) The facility has been part of the existing baseline of eligible renewable energy resources of a retail seller established pursuant to paragraph (2) of subdivision (b) of Section 399.15 of the Public

Utilities Code or has been part of the existing baseline of eligible renewable energy resources of a local publicly owned electric utility established pursuant to Section 387 of the Public Utilities Code.

(3) For the purposes of this subdivision, "solid waste conversion" means a technology that uses a noncombustion thermal process to convert solid waste to a clean-burning fuel for the purpose of generating electricity, and that meets all of the following criteria:

(A) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.

(B) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 38505 of the Health and Safety Code.

(C) The technology produces no discharges to surface *waters* or groundwaters of the state.

(D) The technology produces no hazardous wastes.

(E) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that those materials will be recycled or composted.

(F) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.

(G) The technology meets any other conditions established by the ~~commission~~ *department*.

(H) The facility certifies that any local agency sending solid waste to the facility diverted at least 30 percent of all solid waste it collects through solid waste reduction, recycling, and composting. For purposes of this paragraph, "local agency" means any city, county, or special district, or subdivision thereof, which is authorized to provide solid waste handling services.

(c) "Procurement entity" means any person or corporation that enters into an agreement with a retail seller to procure eligible renewable energy resources pursuant to subdivision (f) of Section 399.14 of the Public Utilities Code.

(d) "Renewable energy public goods charge" means that portion of the nonbypassable system benefits charge authorized to be collected and to be transferred to the Renewable Resource Trust Fund pursuant to the Reliable Electric Service Investments Act

(Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code).

(e) "Report" means the report entitled "Investing in Renewable Electricity Generation in California" (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the ~~commission~~ *former State Energy Resources Conservation and Development Commission*.

(f) "Retail seller" means a "retail seller" as defined in Section 399.12 of the Public Utilities Code.

SEC. 314. Section 25771 of the Public Resources Code is amended to read:

25771. On or before July 1, 2006, the ~~commission~~ *department* shall develop and adopt all of the following:

(a) A database of the energy efficiency of a representative sample of replacement tires sold in the state, based on test procedures adopted by the ~~commission~~ *department*.

(b) Based on the data collected pursuant to subdivision (a), a rating system for the energy efficiency of replacement tires sold in the state, that will enable consumers to make more informed decisions when purchasing tires for their vehicles.

(c) Based on the test procedures adopted pursuant to subdivision (a) and the rating system established pursuant to subdivision (b), requirements for tire manufacturers to report to the ~~commission~~ *department* the energy efficiency of replacement tires sold in the state.

SEC. 315. Section 25772 of the Public Resources Code is amended to read:

25772. On or before July 1, 2007, the ~~commission, in consultation with~~ *department by action of* the board, shall, after appropriate notice and workshops, adopt and, on or before July 1, 2008, implement~~,~~ a tire energy efficiency program of statewide applicability for replacement tires, designed to ensure that replacement tires sold in the state are at least as energy efficient, on average, as tires sold in the state as original equipment on new passenger cars and light-duty trucks.

SEC. 316. Section 25773 of the Public Resources Code is amended to read:

25773. (a) The program described in Section 25772 shall include all of the following:

(1) The development and adoption of minimum energy efficiency standards for replacement tires, except to the extent that the ~~commission~~ *department* determines that it is unable to do so in a manner that complies with subparagraphs (A) to (E), inclusive. Energy efficiency standards adopted pursuant to this paragraph shall meet all of the following conditions:

(A) Be technically feasible and cost effective.

(B) Not adversely affect tire safety.

(C) Not adversely affect the average tire life of replacement tires.

(D) Not adversely affect state efforts to manage scrap tires pursuant to Chapter 17 (commencing with Section 42860) of Part 3 of Division 30.

(2) The development and adoption of consumer information requirements for replacement tires for which standards have been adopted pursuant to paragraph (1).

(b) The energy efficiency standards established pursuant to paragraph (1) of subdivision (a) shall be based on the results of laboratory testing and, to the extent it is available and deemed appropriate by the ~~commission~~ *department*, an onroad fleet testing program developed by tire manufacturers in consultation with the ~~commission~~ *department* and the board, conducted by tire manufacturers, and submitted to the ~~commission~~ *department* on or before January 1, 2006.

(c) If the ~~commission~~ *department* finds that tires used to equip an authorized emergency vehicle, as defined in Section 165 of the Vehicle Code, are unable to meet the standards established pursuant to paragraph (1) of subdivision (a), the ~~commission~~ *department* shall authorize an operator of an authorized emergency vehicle fleet to purchase for those vehicles tires that do not meet those standards.

(d) The ~~commission~~ *department*, in consultation with the board, shall review and revise the program, including any standards adopted pursuant to the program, as necessary, but not less than once every three years. The ~~commission~~ *department* may not revise the program or standards in a way that reduces the average efficiency of replacement tires.

SEC. 317. Section 25782 of the Public Resources Code is amended to read:

25782. (a) The ~~commission~~ *department, by the action of the board* shall, by January 1, 2008, in consultation with the Public Utilities Commission, local publicly owned electric utilities, and interested members of the public, establish eligibility criteria for solar energy systems receiving ratepayer funded incentives that include all of the following:

(1) Design, installation, and electrical output standards or incentives.

(2) The solar energy system is intended primarily to offset part or all of the consumer's own electricity demand.

(3) All components in the solar energy system are new and unused, and have not previously been placed in service in any other location or for any other application.

(4) The solar energy system has a warranty of not less than 10 years to protect against defects and undue degradation of electrical generation output.

(5) The solar energy system is located on the same premises of the end-use consumer where the consumer's own electricity demand is located.

(6) The solar energy system is connected to the electrical corporation's electrical distribution system within the state.

(7) The solar energy system has meters or other devices in place to monitor and measure the system's performance and the quantity of electricity generated by the system.

(8) The solar energy system is installed in conformance with the manufacturer's specifications and in compliance with all applicable electrical and building code standards.

(b) The ~~commission~~ *department, by the action of the board* shall establish conditions on ratepayer funded incentives that require all of the following:

(1) Appropriate siting and high quality installation of the solar energy system by developing installation guidelines that maximize the performance of the system and prevent qualified systems from being inefficiently or inappropriately installed. The conditions established by the ~~commission~~ *department, by the action of the board* shall not impact housing designs or densities presently authorized by a city, county, or city and county. The goal of this paragraph is to achieve efficient installation of solar energy systems to promote the greatest energy production per ratepayer dollar.

(2) Optimal solar energy system performance during periods of peak electricity demand.

(3) Appropriate energy efficiency improvements in the new or existing home or commercial structure where the solar energy system is installed.

(c) The ~~commission~~ *department, by the action of the board* shall set rating standards for equipment, components, and systems to ~~assure~~ *ensure* reasonable performance and shall develop standards that provide for compliance with the minimum ratings.

(d) Upon establishment of eligibility criteria pursuant to subdivision (a), ~~no~~ *a* ratepayer funded incentives shall *not* be made for a solar energy system that ~~does not~~ *fails to* meet the eligibility criteria.

SEC. 318. Section 25783 of the Public Resources Code is amended to read:

25783. The ~~commission~~ *department, by the action of the board* shall do all the following:

(a) Publish educational materials designed to demonstrate how builders may incorporate solar energy systems during construction as well as energy efficiency measures that best complement solar energy systems.

(b) Develop and publish the estimated annual electrical generation and savings for solar energy systems. The estimates shall vary by climate zone, type of system, size, life cycle costs, electricity prices, and other factors the ~~commission~~ *department* determines to be relevant to a consumer when making a purchasing decision.

(c) Provide assistance to builders and contractors. The assistance may include technical workshops, training, educational materials, and related research.

(d) The ~~commission~~ *department* shall annually conduct random audits of solar energy systems to evaluate their operational performance.

SEC. 319. Section 25784 of the Public Resources Code is amended to read:

25784. The ~~commission~~ *department, by action of the board,* shall adopt guidelines for solar energy systems receiving ratepayer funded incentives at a publicly noticed meeting offering all interested parties an opportunity to comment. Not less than 30 days' public notice shall be given of the meeting required by this section, before the ~~commission~~ *board* initially adopts guidelines. Substantive changes to the guidelines shall not be adopted without at least 10 days' written notice to the public. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 320. Section 25802 of the Public Resources Code is amended to read:

25802. ~~Each~~ *(a) A* person who submits to the ~~commission~~ *department* a notice of intent for any proposed generating facility shall accompany the notice with a fee of one cent ($0.01) per kilowatt of net electric capacity of the proposed generation facility. ~~Such~~ *The* fee shall only be paid on one of the alternate proposed facility sites ~~which~~ *that* has the highest electrical designed capacity. In no event shall ~~such~~ *the* fee be less than one thousand dollars ($1,000) nor more than twenty-five thousand dollars ($25,000).

~~For~~

(b) For any other facility, the notice shall be accompanied by a fee of five thousand dollars ($5,000). ~~Such~~ *The* fee shall only be paid on one of the alternate proposed facility sites.

SEC. 321. Section 25803 of the Public Resources Code is amended to read:

25803. ~~All funds~~ *Funds* received by the ~~commission~~ *department* pursuant to Section 25802, shall be remitted to the State Treasurer for deposit in the account. All funds in the account shall be expended for purposes of carrying out the provisions of this division, when appropriated by the Legislature in the Budget Act.

SEC. 322. Section 25900 of the Public Resources Code is amended to read:

25900. Except as provided in Section 25531, whenever the ~~commission~~ *department, by the action of the board,* finds that any provision of this division is violated or a violation is threatening to take place ~~which~~ *that* constitutes an emergency requiring immediate action to protect the public health, welfare, or safety, the Attorney General, upon request of the ~~commission~~ *department or the board,* shall petition a court to enjoin ~~such~~ *the* violation. The court shall have jurisdiction to grant ~~such~~ prohibitory or mandatory injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, and permanent injunction.

SEC. 323. Section 25901 of the Public Resources Code is amended to read:

25901. (a) Within 30 days after the ~~commission~~ *department, including the board,* issues its determination on any matter specified in this division, except as provided in Section 25531, any aggrieved person may file with the superior court a petition for a writ of mandate for review ~~thereof~~ *of the determination*. Failure to file ~~such an action~~ *this petition* does not preclude a person from challenging the reasonableness and validity of a decision in any judicial proceedings brought to enforce the decision or to obtain other civil remedies.

(b) The decision of the ~~commission~~ *department or the board* shall be sustained by the court unless the court finds (1) that the ~~commission~~ *department or the board* proceeded without, or in excess of its jurisdiction, (2) that, based exclusively upon a review of the record before the ~~commission~~ *department or the board*, the decision is not supported by substantial evidence in light of the whole record, or (3) that the ~~commission~~ *department or the board* failed to proceed in the manner required by law.

(c) Except as otherwise provided in this section, subdivisions (f) and (g) of Section 1094.5 of the Code of Civil Procedure govern proceedings pursuant to this section.

(d) The amendment of this section made at the 1989–90 Regular Session of the Legislature does not constitute a change in, but is declaratory of, existing law.

SEC. 324. Section 25902 of the Public Resources Code is amended to read:

25902. Any evaluations in the reports required by Section ~~25309~~ *25302* and any findings and determinations on the notice of intent pursuant to Chapter 6 (commencing with Section 25500) shall not be construed as a final evaluation, finding, or determination by the ~~commission~~ *department or the board* and a court action may not be brought to review ~~any such~~ *the* evaluation, finding, or determination.

SEC. 325. Section 25910 of the Public Resources Code is amended to read:

25910. The ~~commission~~ *department* shall, by regulation adopted ~~no later than July 1, 1978~~ *by the board*, establish minimum standards for the amount of additional insulation (expressed in terms of R-value) installed in existing buildings. One year after the adoption of those standards, no insulation shall be installed in any existing building by a contractor unless the contractor certifies to the customer in writing that the amount of insulation (expressed in terms of R-value) meets or exceeds the minimum amount established by the standards. The minimum standards may vary for different types of buildings or building occupancies and different climate zones in the state. The minimum standards shall be economically feasible in that the resultant savings in energy procurement costs shall be greater than the cost of the insulation to the customer amortized over the useful life of the insulation.

SEC. 326. Section 25911 of the Public Resources Code is amended to read:

25911. The ~~State Energy Resources Conservation and Development Commission~~ *California Energy Board* may adopt regulations pertaining to urea formaldehyde foam insulation materials as are reasonably necessary to protect the public health and safety. These regulations may include, but are not limited to, prohibition of the manufacture, sale, or installation of urea formaldehyde foam insulation, requirements for safety notices to consumers, certification of installers, and specification of installation practices. Regulations adopted pursuant to this section shall be promulgated after public hearings in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Any regulation adopted by the ~~commission~~ *board* to prohibit the sale and installation of urea formaldehyde foam insulation shall be based upon a record of scientific evidence ~~which~~ *that* demonstrates the need for the prohibition in order to protect the public health and safety.

SEC. 327. Section 25912 of the Public Resources Code is amended to read:

25912. Prior to *the board* adopting any regulation ~~which~~ *that* causes a prohibition on the sale and installation of urea formaldehyde foam insulation, the ~~commission~~ *department* shall consult with, and solicit written comments from, all of the following:

(a) Federal and state agencies with appropriate scientific staffs, including, but not limited to, the State Department of Health Services, the National Academy of Sciences, the United States

Department of Housing and Urban Development, the United States Department of Energy, and the United States Consumer Product Safety Commission.

(b) Universities and public and private scientific organizations.

SEC. 328. Section 25942 of the Public Resources Code is amended to read:

25942. (a) On or before July 1, 1995, the ~~commission~~ *department* shall establish criteria for adopting a statewide home energy rating program for residential dwellings. The program criteria shall include, but are not limited to, all of the following elements:

(1) Consistent, accurate, and uniform ratings based on a single statewide rating scale.

(2) Reasonable estimates of potential utility bill savings, and reliable recommendations on cost-effective measures to improve energy efficiency.

(3) Training and certification procedures for home raters and quality assurance procedures to promote accurate ratings and to protect consumers.

(4) In coordination with home energy rating service organization data bases, procedures to establish a centralized, publicly accessible, data base that includes a uniform reporting system for information on residential dwellings, excluding proprietary information, needed to facilitate the program. There shall be no public access to information in the data base concerning specific dwellings without the owner's or occupant's permission.

(5) Labeling procedures that will meet the needs of home buyers, homeowners, renters, the real estate industry, and mortgage lenders with an interest in home energy ratings.

(b) The ~~commission~~ *department* shall adopt the program pursuant to subdivision (a) in consultation with representatives of the Department of Real Estate, the Department of Housing and Community Development, the Public Utilities Commission, investor-owned and municipal utilities, cities and counties, real estate licensees, home builders, mortgage lenders, home appraisers and inspectors, home energy rating organizations, contractors who provide home energy services, consumer groups, and environmental groups.

(c) On and after January 1, 1996, no home energy rating services may be performed in this state unless the services have been certified, if ~~such~~ a certification program is available, by the ~~commission~~ *department* to be in compliance with the program criteria specified in subdivision (a) and, in addition, are in conformity with any other applicable element of the program.

(d) On or before July 1, 1996, the ~~commission~~ *department* shall consult with the agencies and organizations described in subdivision (b), to facilitate a public information program to inform homeowners, rental property owners, renters, sellers, and others of the existence of the statewide home energy rating program adopted by the ~~commission~~ *department*.

(e) Beginning with the 1998 biennial energy conservation report required by Section 25401.1, the ~~commission~~ *department* shall, as part of that biennial report *prepared pursuant to Section 25302*, report on the progress made to implement a statewide home energy rating program. The report shall include an evaluation of the energy savings attributable to the program, and a recommendation concerning which means and methods will be most efficient and cost-effective to induce home energy ratings for residential dwellings.

SEC. 329. Section 25960 of the Public Resources Code is amended to read:

25960. ~~No~~ *A* new residential-type gas appliance that is equipped with a pilot light shall *not* be sold in the state after an alternate means has been certified by the ~~commission~~ *board*. This prohibition shall become operative 24 months after an intermittent ignition device has been demonstrated and certified by the ~~commission~~ *board* as an alternate means. The ~~commission~~ *board* may determine, after demonstration, that there is no feasible alternative means to the use of pilot light or that the use of a pilot light is necessary for public health and safety.

SEC. 330. Section 25961 of the Public Resources Code is amended to read:

25961. The ~~commission~~*department, by action of the board*, shall, on or before January 1, 1976, develop in cooperation with affected industry and consumer representatives, who will be designated as such representatives by the ~~commission~~ *board*, the specifications for certification of intermittent ignition devices ~~which~~ *that* shall not significantly affect the price of gas appliances in competition with similar electrical appliances. The specification shall be developed so as to result in the conservation of primary energy resources, shall include provisions necessary for public health and safety, and shall give due consideration to the initial costs, including installation and maintenance costs imposed upon the consumer.

SEC. 331. Section 25962 of the Public Resources Code is amended to read:

25962. Within 90 days after an intermittent ignition device has been certified by the ~~commission~~ *board*, the ~~commission~~ *department* shall notify all gas appliance manufacturers doing business in the state, as to the prohibition of affected pilot lights and shall inform the manufacturers of the devices available to comply with this article.

SEC. 332. Section 25963 of the Public Resources Code is amended to read:

25963. The ~~commission~~ *department* shall create a seal of certification and shall distribute the seal to every manufacturer that complies with this article. The seal shall be affixed to every new appliance sold in the state.

SEC. 333. Section 25964 of the Public Resources Code is amended to read:

25964. After 24 months after an intermittent ignition device has been certified by the ~~commission~~ *board*, ~~no~~ *a* person shall *not* sell or offer for sale in this state any new gas appliances, as defined in Section 25950, without obtaining the proper seal of certification from the ~~commission~~ *board*, unless the ~~commission~~ *board* otherwise permits ~~such~~ *this* action. Beginning 24 months after an intermittent ignition device has been certified by the ~~commission, no~~ *board, a* city or county, city and county, or state agency shall *not* issue a permit for any building to be equipped with any new gas appliance, as defined in Section 25950, unless ~~such~~ *the* building permit shows that the gas appliance complies with this chapter. However, any new gas appliance ~~which~~ *that* does not comply with this chapter may be installed if the appliance was purchased pursuant to a contract executed prior to June 17, 1978, and if the building permit was approved prior to July 8, 1978.

SEC. 334. Section 25965 of the Public Resources Code is amended to read:

25965. After 24 months after an intermittent ignition device has been certified by the ~~commission~~ *board*, the ~~commission~~ *department* shall make periodic inspections of manufacturers and distributors of gas appliances and may inspect retail outlets, including gas appliances that have been or are to be installed by contractors or builders at building sites in order to determine their compliance with this article.

SEC. 335. Section 25967 of the Public Resources Code is amended to read:

25967. (a) Any person who violates ~~any provision of~~ this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney, county counsel, or city attorney in any court of competent jurisdiction.

(b) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the State Treasurer. If brought by a district attorney or county counsel, the entire amount of penalty collected shall be paid to the treasurer of the county in which the judgment was entered. If brought by a city attorney or city prosecutor, one-half of the penalty shall be paid to the treasurer of the county and one-half to the city.

(c) If the action is brought at the request of the ~~commission~~ *department or the board*, the court shall determine the reasonable expenses incurred by the ~~commission~~ *department or the board* in the investigation and prosecution of the action.

~~Before~~

(d) Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the ~~commission~~ *department or the board* shall be paid to the State Treasurer.

SEC. 336. Section 25968 of the Public Resources Code is amended to read:

25968. Any inspector appointed or authorized by the ~~commission~~ *department or the board* shall have access to the premises, equipment, materials, partly finished and finished articles, and records of any person subject to ~~the provisions of~~ this chapter.

SEC. 337. Section 26004 of the Public Resources Code is amended to read:

26004. (a) There is in the state government the California Alternative Energy and Advanced Transportation Financing Authority. The authority constitutes a public instrumentality and the exercise by the authority of powers conferred by this division is the performance of an essential public function.

(b) The authority shall consist of five members, as follows:

(1) The Director of Finance.

(2) The ~~Chairperson of the State Energy Resources Conservation and Development Commission~~ *Secretary of the Department of Energy*.

(3) The President of the Public Utilities Commission.

(4) The Controller.

(5) The Treasurer, who shall serve as the chairperson of the authority.

(c) The members listed in paragraphs (1) to (5), inclusive, of subdivision (b) may each designate a deputy or clerk in his or her agency to act for and represent the member at all meetings of the authority.

(d) The first meeting of the authority shall be convened by the Treasurer.

SEC. 338. Section 26011.5 of the Public Resources Code is amended to read:

26011.5. The authority, in consultation with the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy*, shall establish criteria for the selection of projects to receive financing assistance from the authority. In the selection of projects, the authority shall, in accordance with the legislative intent, provide financial assistance under this division in a manner consistent with sound financial practice. In developing project selection criteria, the authority shall consider, but not be limited to, all of the following:

(a) The technological feasibility of the projects.

(b) The economic soundness of the projects and a realistic expectation that all financial obligations can and will be met by the participating parties.

(c) The contribution that the projects can make to a reduction or more efficient use of fossil fuels.

(d) The contribution that the project can make toward diversifying California's energy resources by fostering renewable energy systems that can substitute, or preferably eliminate, the demand for conventional energy fuels.

(e) Any other such factors that the authority finds significant in achieving the purposes and objectives of this division.

SEC. 339. Section 26011.6 of the Public Resources Code is amended to read:

26011.6. (a) The authority shall establish a renewable energy program to provide financial assistance to public power entities, independent generators, utilities, or businesses manufacturing components or systems, or both, to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies, such as solar, photovoltaic, wind, and ultralow-emission equipment. The authority shall give preference to utility-scale projects that can be rapidly deployed to provide a significant contribution as a renewable energy supply. The program established pursuant to this subdivision shall include financial assistance provided pursuant to subdivision (g) of Section 26011.

(b) The authority shall make every effort to expedite the operation of renewable energy systems, and shall adopt regulations for purposes of this section and Section 26011.5 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of ~~that~~ Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding the 120-day limitation specified in subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the authority complies with Sections 11346.2 to 11347.3, inclusive, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) The authority shall consult with the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* regarding the financing of projects to avoid duplication of other renewable energy projects.

(d) The authority shall ensure that any financed project shall offer its power within California on a long-term contract basis.

(e) The authority shall ensure that a financed project is limited to resources that the authority determines support the state's goals for the reduction of emissions of greenhouse gases pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

SEC. 340. Section 30404 of the Public Resources Code is amended to read:

30404. (a) The commission shall periodically, in the case of the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy*, the State Board of Forestry and Fire Protection, the State Water Resources Control Board and the California regional water quality control boards, the State Air Resources Board and air pollution control districts and air quality management districts, the Department of Fish and Game, the Department of Parks and Recreation, the Department of Boating and Waterways, the California Geological Survey and the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation, and the State Lands Commission, and may, with respect to any other state agency, submit recommendations designed to encourage the state agency to carry out its functions in a manner consistent with this division. The recommendations may include proposed changes in administrative regulations, rules, and statutes.

(b) Each of those state agencies shall review and consider the commission recommendations and shall, within six months from the date of their receipt, to the extent that the recommendations have not been implemented, report to the Governor and the Legislature its action and reasons therefor. The report shall also include the state agency's comments on any legislation that may have been proposed by the commission.

SEC. 341. Section 322 is added to the Public Utilities Code, to read:

322. (a) Whenever in this chapter a reference is made to the "California Energy Resources Conservation and Development Commission," the "State Energy Resources Conservation and Development Commission," or the "Energy Commission," it means the Department of Energy as successor to that entity.

(b) Whenever in this chapter a reference is made to the Department of Water Resources acting pursuant to Division 27 (commencing with Section 80000) of the Water Code, it includes

the Department of Energy as the successor to the Department of Water Resources for this purpose.

SEC. 342. Section 332.1 of the Public Utilities Code is amended to read:

332.1. (a) (1) It is the intent of the Legislature to enact Item 1 (revised) on the commission's August 21, 2000 agenda, entitled "Opinion Modifying Decision (D.) D.00-06-034 and D.00-08-021 to Regarding Interim Rate Caps for San Diego Gas and Electric Company," as modified below.

(2) It is also the intent of the Legislature that to the extent that the Federal Energy Regulatory Commission orders refunds to electrical corporations pursuant to their findings, the commission shall ensure that any refunds are returned to customers.

(b) The commission shall establish a ceiling of six and five-tenths cents ($0.065) per kilowatthour on the energy component of electric bills for electricity supplied to residential, small commercial, and street lighting customers by the San Diego Gas and Electric Company, through December 31, 2002, retroactive to June 1, 2000. If the commission finds it in the public interest, this ceiling may be extended through December 2003 and may be adjusted as provided in subdivision (d).

(c) The commission shall establish an accounting procedure to track and recover reasonable and prudent costs of providing electric energy to retail customers unrecovered through retail bills due to the application of the ceiling provided for in subdivision (b). The accounting procedure shall utilize revenues associated with sales of energy from utility-owned or managed generation assets to offset an undercollection, if undercollection occurs. The accounting procedure shall be reviewed periodically by the commission, but not less frequently than semiannually. The commission may utilize an existing proceeding to perform the review. The accounting procedure and review shall provide a reasonable opportunity for San Diego Gas and Electric Company to recover its reasonable and prudent costs of service over a reasonable period of time.

(d) If the commission determines that it is in the public interest to do so, the commission, after the date of the completion of the proceeding described in subdivision (g), may adjust the ceiling from the level specified in subdivision (b), and may adjust the frozen rate from the levels specified in subdivision (f), consistent with the Legislature's intent to provide substantial protections for customers of the San Diego Gas and Electric Company and their interest in just and reasonable rates and adequate service.

(e) For purposes of this section, "small commercial customer" includes, but is not limited to, all San Diego Gas and Electric Company accounts on Rate Schedule A of the San Diego Gas and Electric Company, all accounts of customers who are "general acute care hospitals," as defined in Section 1250 of the Health and Safety Code, all San Diego Gas and Electric Company accounts of customers who are public or private schools for pupils in kindergarten or any of grades 1 to 12, inclusive, and all accounts on Rate Schedule AL-TOU under 100 kilowatts.

(f) The commission shall establish an initial frozen rate of six and five-tenths cents ($0.065) per kilowatthour on the energy component of electric bills for electricity supplied to all customers by the San Diego Gas and Electric Company not subject to subdivision (b), for the time period ending with the end of the rate freeze for the Pacific Gas and Electric Company and the Southern California Edison Company pursuant to Section 368, retroactive to February 7, 2001. The commission shall consider the comparable energy components of rates for comparable customer classes served by the Pacific Gas and Electric Company and the Southern California Edison Company and, if it determines it to be in the public interest, the commission may adjust this frozen rate, and may do so, retroactive to the date that rate increases took effect for customers of Pacific Gas and Electric Company and Southern California Edison Company pursuant to the commission's March 27, 2001, decision. The commission shall determine the Fixed Department of Water Resources Set-Aside pursuant to Section 360.5 for customers subject to this section, reflecting a retail rate consistent with the rate for the energy component of electric bills as determined in this subdivision, in place of the retail rate in effect on January 5, 2001. This section shall be construed to modify the payment provisions, but may not be construed to modify the electric procurement obligations of the Department of Water Resources, pursuant to any contract or agreement in accordance with Division 27 (commencing with Section 80000) of the Water Code, and in effect as of February 7, 2001, between the Department of Water Resources and San Diego Gas and Electric Company.

(g) The commission shall institute a proceeding to examine the prudence and reasonableness of the San Diego Gas and Electric

Company in the procurement of wholesale energy on behalf of its customers, for a period beginning, at the latest, on June 1, 2000. If the commission finds that San Diego Gas and Electric Company acted imprudently or unreasonably, the commission shall issue orders that it determines to be appropriate affecting the retail rates of San Diego Gas and Electric Company customers including, but not limited to, refunds.

(h) ~~Nothing in this~~ *This* section ~~may be construed to~~ *does not* limit the authority of the Department of Water Resources, *or its successor,* pursuant to Division 27 (commencing with Section 80000) of the Water Code.

SEC. 343. Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

SEC. 344. Section 345.1 is added to the Public Utilities Code, to read:

345.1. (a) The Independent System Operator governing board shall be composed of a five-member independent governing board of directors appointed by the Governor and subject to confirmation by the Senate. Any reference in this chapter or in any other provision of law to the Independent System Operator governing board means the independent governing board appointed under this subdivision.

(b) A member of the independent governing board appointed under subdivision (a) may not be affiliated with any actual or potential participant in any market administered by the Independent System Operator.

(c) (1) All appointments shall be for three-year terms.

(2) There is no limit on the number of terms that may be served by any member.

(d) The Office of Energy Market Oversight shall require the articles of incorporation and bylaws of the Independent System Operator to be maintained in accordance with this section, and shall make filings with the Federal Energy Regulatory Commission as the office determines to be necessary.

(e) For the purposes of the initial appointments to the Independent System Operator governing board, as provided in subdivision (a), the Governor shall appoint one member to a one-year term, two members to a two-year term, and two members to a three-year term.

SEC. 345. Section 345.2 is added to the Public Utilities Code, to read:

345.2. (a) The Independent System Operator bylaws shall contain provisions that identify those matters specified in subdivision (b) of Section 25227.6 of the Public Resources Code as matters within state jurisdiction. The bylaws shall also contain provisions that state that California's bylaws approval function with respect to the matters specified in subdivision (b) of Section 25227.6 of the Public Resources Code shall not preclude the Federal Energy Regulatory Commission from taking any action necessary to address undue discrimination or other violations of the Federal Power Act (16 U.S.C. Sec. 791a et seq.) or to exercise any other commission responsibility under the Federal Power Act. In taking this action, the Federal Energy Regulatory Commission shall give due respect to California's jurisdictional interests in the functions of the Independent System Operator and to attempt to accommodate state interests to the extent those interests are not inconsistent with the Federal Energy Regulatory Commission's statutory responsibilities. The bylaws shall state that any future agreement regarding the apportionment of the Independent System Operator board appointment function among participating states associated with the expansion of the Independent System Operator into a multistate entity shall be filed with the Federal Energy Regulatory Commission pursuant to Section 205 of the Federal Power Act (16 U.S.C. Sec. 824d).

(b) Any necessary bylaw changes to implement the provisions of Section 345.1 or subdivision (a) of this section, or Section 25227.1, 25227.5, or 25227.6 of the Public Resources Code, or changes required pursuant to an agreement as contemplated by subdivision (a) of this section with a participating state for a regional organization, shall be effective upon approval of the Independent System Operator governing board and the Office of Energy Market Oversight and acceptance for filing by the Federal Energy Regulatory Commission.

SEC. 346. Section 346 of the Public Utilities Code is repealed.

~~346. The Independent System Operator shall immediately participate in all relevant Federal Energy Regulatory Commission proceedings. The Independent System Operator shall ensure that additional filings at the Federal Energy Regulatory Commission request confirmation of the relevant provisions of this chapter and~~

~~seek the authority needed to give the Independent System Operator the ability to secure generating and transmission resources necessary to guarantee achievement of planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the North American Electric Reliability Council.~~

SEC. 347. Section 348 of the Public Utilities Code is amended to read:

348. The Independent System Operator shall adopt inspection, maintenance, repair, and replacement standards for the transmission facilities under its control no later than September 30, 1997. The standards, which shall be performance or prescriptive standards, or both, as appropriate, for each substantial type of transmission equipment or facility, shall provide for high quality, safe, and reliable service. In adopting its standards, the Independent System Operator shall consider: cost, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment, and experience. The Independent System Operator shall also adopt standards for reliability, and safety during periods of emergency and disaster. The Independent System Operator shall report to the *Office of Energy Market* Oversight ~~Board~~, at ~~such~~ *the* times as ~~the Oversight Board~~ *that office* may specify, on the development and implementation of the standards in relation to facilities under the operational control of the Independent System Operator. The Independent System Operator shall require each transmission facility owner or operator to report annually on its compliance with the standards. That report shall be made available to the public.

SEC. 348. Section 350 of the Public Utilities Code is repealed.

~~350. The Independent System Operator, in consultation with the California Energy Resources Conservation and Development Commission, the Public Utilities Commission, the Western Electricity Coordinating Council, and concerned regulatory agencies in other western states, shall within six months after the Federal Energy Regulatory Commission approval of the Independent System Operator, provide a report to the Legislature and to the Oversight Board that does the following:~~

~~(a) Conducts an independent review and assessment of Western Electricity Coordinating Council operating reliability criteria.~~

~~(b) Quantifies the economic cost of major transmission outages relating to the Pacific Intertie, Southwest Power Link, DC link, and other important high voltage lines that carry power both into and from California.~~

~~(c) Identifies the range of cost-effective options that would prevent or mitigate the consequences of major transmission outages.~~

~~(d) Identifies communication protocols that may be needed to be established to provide advance warning of incipient problems.~~

~~(e) Identifies the need for additional generation reserves and other voltage support equipment, if any, or other resources that may be necessary to carry out its functions.~~

~~(f) Identifies transmission capacity additions that may be necessary at certain times of the year or under certain conditions.~~

~~(g) Assesses the adequacy of current and prospective institutional provisions for the maintenance of reliability.~~

~~(h) Identifies mechanisms to enforce transmission right-of-way maintenance.~~

~~(i) Contains recommendations regarding cost-beneficial improvements to electric system reliability for the citizens of California.~~

SEC. 349. Section 352 of the Public Utilities Code is amended to read:

352. The Independent System Operator may not enter into a multistate entity or a regional organization as authorized in Section 359 unless that entry is approved by the *Office of Energy Market* Oversight ~~Board~~.

SEC. 350. Section 353.7 of the Public Utilities Code is amended to read:

353.7. Notwithstanding Section 353.3, ~~nothing in~~ this article ~~may~~ *does not* result in any exemption from reasonable interconnection charges, lead to any reduction in contributions by each customer class to public purpose programs funded under Section 399.8, or relieve any customer of any obligation determined by the commission to result from participation in the purchase of power through the Department of Water Resources, *or its successor, the Department of Energy,* pursuant to Division 27 (commencing with Section 80000) of the Water Code.

SEC. 351. Section 360 of the Public Utilities Code is repealed.

~~360. The commission shall ensure that existing, and if necessary, additional filings at the Federal Energy Regulatory Commission request confirmation of the relevant provisions of this chapter and seek the authority needed to give the Independent System Operator the ability to secure generating and transmission resources necessary to guarantee achievement of planning and operating reserve criteria no less stringent than those established by the Western Electricity Coordinating Council and the North American Electric Reliability Council.~~

SEC. 352. Section 365 of the Public Utilities Code is repealed.

~~365. The actions of the commission pursuant to this chapter shall be consistent with the findings and declarations contained in Section 330. In addition, the commission shall do all of the following:~~

~~(a) Facilitate the efforts of the state's electrical corporations to develop and obtain authorization from the Federal Energy Regulatory Commission for the creation and operation of an Independent System Operator and an independent Power Exchange, for the determination of which transmission and distribution facilities are subject to the exclusive jurisdiction of the commission, and for approval, to the extent necessary, of the cost recovery mechanism established as provided in Sections 367 to 376, inclusive. The commission shall also participate fully in all proceedings before the Federal Energy Regulatory Commission in connection with the Independent System Operator and the independent Power Exchange, and shall encourage the Federal Energy Regulatory Commission to adopt protocols and procedures that strengthen the reliability of the interconnected transmission grid, encourage all publicly owned utilities in California to become full participants, and maximize enforceability of such protocols and procedures by all market participants.~~

~~(b) (1) Authorize direct transactions between electricity suppliers and end use customers, subject to implementation of the nonbypassable charge referred to in Sections 367 to 376, inclusive. Direct transactions shall commence simultaneously with the start of an Independent System Operator and Power Exchange referred to in subdivision (a). The simultaneous commencement shall occur as soon as practicable, but no later than January 1, 1998. The commission shall develop a phase-in schedule at the conclusion of which all customers shall have the right to engage in direct~~

~~transactions. Any phase-in of customer eligibility for direct transactions ordered by the commission shall be equitable to all customer classes and accomplished as soon as practicable, consistent with operational and other technological considerations, and shall be completed for all customers by January 1, 2002.~~

~~(2) Customers shall be eligible for direct access irrespective of any direct access phase-in implemented pursuant to this section if at least one-half of that customer's electrical load is supplied by energy from a renewable resource provider certified pursuant to Section 383, provided however that nothing in this section shall provide for direct access for electric consumers served by municipal utilities unless so authorized by the governing board of that municipal utility.~~

SEC. 353. Section 366.1 of the Public Utilities Code is amended to read:

366.1. (a) As used in this section, the following terms have the following meanings:

(1) "Department" means the Department of Water Resources, *or its successor, the Department of Energy* with respect to its power program described in Chapter 2 (commencing with Section 80100) of Division 27 of the Water Code.

(2) "Existing project participant" means a city with rights and obligations to the Magnolia Power Project under the Magnolia Power Project Planning Agreement, dated May 1, 2001.

(3) "Magnolia Power Project" means a proposed natural gas-fired electric generating facility to be located at an existing site in Burbank and for which an application for certification has been filed with the State Energy Resources Conservation and Development Act (Docket No. 00-SIT-1) and deemed data adequate pursuant to the expedited six-month licensing process established under Section 25550 of the Public Resources Code.

(b) Notwithstanding Section 80110 of the Water Code or Commission Decision 01-09-060, if the Magnolia Power Project has been constructed and is otherwise capable of beginning deliveries of electricity to the existing project participants, an existing project participant may serve as a community aggregator on behalf of all retail end-use customers within its jurisdiction.

(c) Subdivision (b) shall not become operative until both of the following occur:

(1) The commission implements a cost-recovery mechanism, consistent with subdivision (d), that is applicable to customers that elected to purchase electricity from an alternate provider between February 1, 2001, and the effective date of the act adding this section.

(2) The commission submits a report certifying its satisfaction of paragraph (1) to the Senate Energy, Utilities and Communications Committee, or its successor, and the Assembly Committee on Utilities and Commerce, or its successor.

(d) (1) It is the intent of the Legislature that each retail end-use customer that has purchased power from an electrical corporation on or after February 1, 2001, should bear a fair share of the department's power purchase costs, as well as power purchase contract obligations incurred as of January 1, 2003, that are recoverable from electrical corporation customers in commission-approved rates. It is the further intent of the Legislature to prevent any shifting of recoverable costs between customers.

(2) The Legislature finds and declares that the provisions in this subdivision are consistent with the requirements of Section 360.5 and Division 27 (commencing with Section 80000) of the Water Code, and are therefore declaratory of existing law.

(e) A retail end-use customer purchasing power from a community aggregator pursuant to subdivision (b) shall reimburse the department for all of the following:

(1) A charge equivalent to the charge ~~which~~ *that* would otherwise be imposed on the customer by the commission to recover bond related costs pursuant to an agreement between the commission and the ~~Department of Water Resources~~ *department* pursuant to Section 80110 of the Water Code, that charge shall be payable until all obligations of the ~~Department of Water Resources~~ *department* pursuant to Division 27 of the Water Code are fully paid or otherwise discharged.

(2) The costs of the department, equal to the share of the department's estimated net unavoidable power purchase contract costs attributable to the customer, as determined by the commission, for the period commencing with the customer's purchases of electricity from a community aggregator, through the expiration of all then existing power purchase contracts entered into by the department.

(f) A retail end-use customer purchasing power from a community aggregator pursuant to subdivision (b) shall reimburse the electrical corporation that previously served the customer for all of the following:

(1) The electrical corporation's unrecovered past undercollections, including all financing costs attributable to that customer, that the commission lawfully determines may be recovered in rates.

(2) The costs of the electrical corporation recoverable in commission-approved rates, equal to the share of the electrical corporation's estimated net unavoidable power purchase contract costs attributable to the customer, as determined by the commission, for the period commencing with the customer's purchases of electricity from the community aggregator, through the expiration of all then existing power purchase contracts entered into by the electrical corporation.

(g) (1) A charge or cost imposed pursuant to subdivision (e), and all revenues received to pay the charge or cost, shall be the property of the ~~Department of Water Resources~~ *department*. A charge or cost imposed pursuant to subdivision (f), and all revenues received to pay the charge or cost, shall be the property of the particular electrical corporation. The commission shall establish mechanisms, including agreements with, or orders with respect to, electrical corporations necessary to ~~assure~~ *ensure* that the revenues received to pay a charge or cost payable pursuant to this section are promptly remitted to the party entitled to those revenues.

(2) A charge or cost imposed pursuant to this section shall be nonbypassable.

SEC. 354. Section 366.2 of the Public Utilities Code is amended to read:

366.2. (a) (1) Customers shall be entitled to aggregate their electric loads as members of their local community with community choice aggregators.

(2) Customers may aggregate their loads through a public process with community choice aggregators, if each customer is given an opportunity to opt out of their community's aggregation program.

(3) If a customer opts out of a community choice aggregator's program, or has no community choice program available, that

customer shall have the right to continue to be served by the existing electrical corporation or its successor in interest.

(b) If a public agency seeks to serve as a community choice aggregator, it shall offer the opportunity to purchase electricity to all residential customers within its jurisdiction.

(c) (1) Notwithstanding Section 366, a community choice aggregator is hereby authorized to aggregate the electrical load of interested electricity consumers within its boundaries to reduce transaction costs to consumers, provide consumer protections, and leverage the negotiation of contracts. However, the community choice aggregator may not aggregate electrical load if that load is served by a local publicly owned electric utility. A community choice aggregator may group retail electricity customers to solicit bids, broker, and contract for electricity and energy services for those customers. The community choice aggregator may enter into agreements for services to facilitate the sale and purchase of electricity and other related services. Those service agreements may be entered into by a single city or county, a city and county, or by a group of cities, cities and counties, or counties.

(2) Under community choice aggregation, customer participation may not require a positive written declaration, but all customers shall be informed of their right to opt out of the community choice aggregation program. If no negative declaration is made by a customer, that customer shall be served through the community choice aggregation program.

(3) A community choice aggregator establishing electrical load aggregation pursuant to this section shall develop an implementation plan detailing the process and consequences of aggregation. The implementation plan, and any subsequent changes to it, shall be considered and adopted at a duly noticed public hearing. The implementation plan shall contain all of the following:

(A) An organizational structure of the program, its operations, and its funding.

(B) Ratesetting and other costs to participants.

(C) Provisions for disclosure and due process in setting rates and allocating costs among participants.

(D) The methods for entering and terminating agreements with other entities.

(E) The rights and responsibilities of program participants, including, but not limited to, consumer protection procedures, credit issues, and shutoff procedures.

(F) Termination of the program.

(G) A description of the third parties that will be supplying electricity under the program, including, but not limited to, information about financial, technical, and operational capabilities.

(4) A community choice aggregator establishing electrical load aggregation shall prepare a statement of intent with the implementation plan. Any community choice load aggregation established pursuant to this section shall provide for the following:

(A) Universal access.

(B) Reliability.

(C) Equitable treatment of all classes of customers.

(D) Any requirements established by state law or by the commission concerning aggregated service.

(5) In order to determine the cost-recovery mechanism to be imposed on the community choice aggregator pursuant to subdivisions (d), (e), and (f) that shall be paid by the customers of the community choice aggregator to prevent shifting of costs, the community choice aggregator shall file the implementation plan with the commission, and any other information requested by the commission that the commission determines is necessary to develop the cost-recovery mechanism in subdivisions (d), (e), and (f).

(6) The commission shall notify any electrical corporation serving the customers proposed for aggregation that an implementation plan initiating community choice aggregation has been filed, within 10 days of the filing.

(7) Within 90 days after the community choice aggregator establishing load aggregation files its implementation plan, the commission shall certify that it has received the implementation plan, including any additional information necessary to determine a cost-recovery mechanism. After certification of receipt of the implementation plan and any additional information requested, the commission shall then provide the community choice aggregator with its findings regarding any cost recovery that must be paid by customers of the community choice aggregator to prevent a shifting of costs as provided for in subdivisions (d), (e), and (f).

(8) No entity proposing community choice aggregation shall act to furnish electricity to electricity consumers within its boundaries until the commission determines the cost-recovery that must be paid by the customers of that proposed community choice aggregation program, as provided for in subdivisions (d), (e), and (f). The commission shall designate the earliest possible effective date for implementation of a community choice aggregation program, taking into consideration the impact on any annual procurement plan of the electrical corporation that has been approved by the commission.

(9) All electrical corporations shall cooperate fully with any community choice aggregators that investigate, pursue, or implement community choice aggregation programs. Cooperation shall include providing the entities with appropriate billing and electrical load data, including, but not limited to, data detailing electricity needs and patterns of usage, as determined by the commission, and in accordance with procedures established by the commission. Electrical corporations shall continue to provide all metering, billing, collection, and customer service to retail customers that participate in community choice aggregation programs. Bills sent by the electrical corporation to retail customers shall identify the community choice aggregator as providing the electrical energy component of the bill. The commission shall determine the terms and conditions under which the electrical corporation provides services to community choice aggregators and retail customers.

(10) (A) A city, county, or city and county that elects to implement a community choice aggregation program within its jurisdiction pursuant to this chapter shall do so by ordinance.

(B) Two or more cities, counties, or cities and counties may participate as a group in a community choice aggregation pursuant to this chapter, through a joint powers agency established pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code, if each entity adopts an ordinance pursuant to subparagraph (A).

(11) Following adoption of aggregation through the ordinance described in paragraph (10), the program shall allow any retail customer to opt out and to continue to be served as a bundled service customer by the existing electrical corporation, or its successor in interest. Delivery services shall be provided at the

same rates, terms, and conditions, as approved by the commission, for community choice aggregation customers and customers that have entered into a direct transaction where applicable, as determined by the commission. Once enrolled in the aggregated entity, any ratepayer that chooses to opt out within 60 days or two billing cycles of the date of enrollment may do so without penalty and shall be entitled to receive default service pursuant to paragraph (3) of subdivision (a). Customers that return to the electrical corporation for procurement services shall be subject to the same terms and conditions as are applicable to other returning direct access customers from the same class, as determined by the commission, as authorized by the commission pursuant to this code or any other provision of law. Any reentry fees to be imposed after the opt-out period specified in this paragraph, shall be approved by the commission and shall reflect the cost of reentry. The commission shall exclude any amounts previously determined and paid pursuant to subdivisions (d), (e), and (f) from the cost of reentry.

(12) Nothing in this section shall be construed as authorizing any city or any community choice retail load aggregator to restrict the ability of retail electricity customers to obtain or receive service from any authorized electric service provider in a manner consistent with law.

(13) (A) The community choice aggregator shall fully inform participating customers at least twice within two calendar months, or 60 days, in advance of the date of commencing automatic enrollment. Notifications may occur concurrently with billing cycles. Following enrollment, the aggregated entity shall fully inform participating customers for not less than two consecutive billing cycles. Notification may include, but is not limited to, direct mailings to customers, or inserts in water, sewer, or other utility bills. Any notification shall inform customers of both of the following:

(i) That they are to be automatically enrolled and that the customer has the right to opt out of the community choice aggregator without penalty.

(ii) The terms and conditions of the services offered.

(B) The community choice aggregator may request the commission to approve and order the electrical corporation to provide the notification required in subparagraph (A). If the commission orders the electrical corporation to send one or more of the notifications required pursuant to subparagraph (A) in the electrical corporation's normally scheduled monthly billing process, the electrical corporation shall be entitled to recover from the community choice aggregator all reasonable incremental costs it incurs related to the notification or notifications. The electrical corporation shall fully cooperate with the community choice aggregator in determining the feasibility and costs associated with using the electrical corporation's normally scheduled monthly billing process to provide one or more of the notifications required pursuant to subparagraph (A).

(C) Each notification shall also include a mechanism by which a ratepayer may opt out of community choice aggregated service. The opt out may take the form of a self-addressed return postcard indicating the customer's election to remain with, or return to, electrical energy service provided by the electrical corporation, or another straightforward means by which the customer may elect to derive electrical energy service through the electrical corporation providing service in the area.

(14) The community choice aggregator shall register with the commission, which may require additional information to ensure compliance with basic consumer protection rules and other procedural matters.

(15) Once the community choice aggregator's contract is signed, the community choice aggregator shall notify the applicable electrical corporation that community choice service will commence within 30 days.

(16) Once notified of a community choice aggregator program, the electrical corporation shall transfer all applicable accounts to the new supplier within a 30-day period from the date of the close of their normally scheduled monthly metering and billing process.

(17) An electrical corporation shall recover from the community choice aggregator any costs reasonably attributable to the community choice aggregator, as determined by the commission, of implementing this section, including, but not limited to, all business and information system changes, except for transaction-based costs as described in this paragraph. Any costs not reasonably attributable to a community choice aggregator shall be recovered from ratepayers, as determined by the commission. All reasonable transaction-based costs of notices, billing, metering,

collections, and customer communications or other services provided to an aggregator or its customers shall be recovered from the aggregator or its customers on terms and at rates to be approved by the commission.

(18) At the request and expense of any community choice aggregator, electrical corporations shall install, maintain and calibrate metering devices at mutually agreeable locations within or adjacent to the community aggregator's political boundaries. The electrical corporation shall read the metering devices and provide the data collected to the community aggregator at the aggregator's expense. To the extent that the community aggregator requests a metering location that would require alteration or modification of a circuit, the electrical corporation shall only be required to alter or modify a circuit if such alteration or modification does not compromise the safety, reliability, or operational flexibility of the electrical corporation's facilities. All costs incurred to modify circuits pursuant to this paragraph, shall be borne by the community aggregator.

(d) (1) It is the intent of the Legislature that each retail end-use customer that has purchased power from an electrical corporation on or after February 1, 2001, should bear a fair share of the ~~Department of Water Resources'~~ electricity purchase costs *of the Department of Water Resources, or its successor, the Department of Energy*, as well as electricity purchase contract obligations incurred as of the effective date of the act adding this section, that are recoverable from electrical corporation customers in commission-approved rates. It is further the intent of the Legislature to prevent any shifting of recoverable costs between customers.

(2) The Legislature finds and declares that this subdivision is consistent with the requirements of Division 27 (commencing with Section 80000) of the Water Code and Section 360.5, and is therefore declaratory of existing law.

(e) A retail end-use customer that purchases electricity from a community choice aggregator pursuant to this section shall pay both of the following:

(1) A charge equivalent to the charges that would otherwise be imposed on the customer by the commission to recover bond related costs pursuant to any agreement between the commission and the Department of Water Resources*, or its successor, the*

Department of Energy pursuant to Section 80110 of the Water Code, which charge shall be payable until any obligations of the Department of Water Resources*, or its successor, the Department of Energy* pursuant to Division 27 (commencing with Section 80000) of the Water Code are fully paid or otherwise discharged.

(2) Any additional costs of the Department of Water Resources, *or its successor, the Department of Energy*, equal to the customer's proportionate share of the ~~Department of Water Resources'~~ estimated net unavoidable electricity purchase contract costs *of the Department of Water Resources, or its successor,* as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the Department of Water Resources*, or its successor, the Department of Energy*.

(f) A retail end-use customer purchasing electricity from a community choice aggregator pursuant to this section shall reimburse the electrical corporation that previously served the customer for all of the following:

(1) The electrical corporation's unrecovered past undercollections for electricity purchases, including any financing costs, attributable to that customer, that the commission lawfully determines may be recovered in rates.

(2) Any additional costs of the electrical corporation recoverable in commission-approved rates, equal to the share of the electrical corporation's estimated net unavoidable electricity purchase contract costs attributable to the customer, as determined by the commission, for the period commencing with the customer's purchases of electricity from the community choice aggregator, through the expiration of all then existing electricity purchase contracts entered into by the electrical corporation.

(g) (1) Any charges imposed pursuant to subdivision (e) shall be the property of the Department of Water Resources*, or its successor, the Department of Energy*. Any charges imposed pursuant to subdivision (f) shall be the property of the electrical corporation. The commission shall establish mechanisms, including agreements with, or orders with respect to, electrical corporations necessary to ensure that charges payable pursuant to this section shall be promptly remitted to the party entitled to payment.

(2) Charges imposed pursuant to subdivisions (d), (e), and (f) shall be nonbypassable.

(h) Notwithstanding Section 80110 of the Water Code, the commission shall authorize community choice aggregation only if the commission imposes a cost-recovery mechanism pursuant to subdivisions (d), (e), (f), and (g). Except as provided by this subdivision, this section shall not alter the suspension by the commission of direct purchases of electricity from alternate providers other than by community choice aggregators, pursuant to Section 80110 of the Water Code.

(i) (1) The commission shall not authorize community choice aggregation until it implements a cost-recovery mechanism, consistent with subdivisions (d), (e), and (f), that is applicable to customers that elected to purchase electricity from an alternate provider between February 1, 2001, and January 1, 2003.

(2) The commission shall not authorize community choice aggregation until it submits a report certifying compliance with paragraph (1) to the Senate Energy, Utilities and Communications Committee, or its successor, and the Assembly Committee on Utilities and Commerce, or its successor.

(3) The commission shall not authorize community choice aggregation until it has adopted rules for implementing community choice aggregation.

(j) The commission shall prepare and submit to the Legislature, on or before January 1, 2006, a report regarding the number of community choices aggregations, the number of customers served by community choice aggregations, third party suppliers to community choice aggregations, compliance with this section, and the overall effectiveness of community choice aggregation programs.

SEC. 355. Section 384 of the Public Utilities Code is amended to read:

384. (a) Funds transferred to the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* pursuant to this article for purposes of public interest research, development, and demonstration shall be transferred to the Public Interest Research, Development, and Demonstration Fund, which is hereby created in the State Treasury. The fund is a trust fund and shall contain money from all interest, repayments, disencumbrances, royalties, and any other proceeds appropriated,

transferred, or otherwise received for purposes pertaining to public interest research, development, and demonstration. Any appropriations that are made from the fund shall have an encumbrance period of not longer than two years, and a liquidation period of not longer than four years.

(b) Funds deposited in the Public Interest Research, Development, and Demonstration Fund may be expended for projects that serve the energy needs of both stationary and transportation purposes if the research provides an electricity ratepayer benefit.

(c) The ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* shall report annually to the appropriate budget committees of the Legislature on any encumbrances or liquidations that are outstanding at the time the commission's budget is submitted to the Legislature for review.

SEC. 356. Section 398.3 of the Public Utilities Code is amended to read:

398.3. (a) Beginning January 1, 1998, or as soon as practicable thereafter, each generator that provides meter data to a system operator shall report to the system operator electricity generated in kilowatthours by hour by generator, the fuel type or fuel types and fuel consumption by fuel type by month on an historical recorded quarterly basis. Facilities using only one fuel type may satisfy this requirement by reporting fuel type only. With regard to any facility using more than one fuel type, reports shall reflect the fuel consumed as a percentage of electricity generation.

(b) The ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy* shall have authorization to access the electricity generation data in kilowatthours by hour for each facility that provides meter data to the system operator, and the fuel type or fuel types.

(c) With regard to out-of-state generation, the ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy* shall have authorization to access the electricity generation data in kilowatthours by hour at the point at which out-of-state generation is metered, to the extent the information has been submitted to a system operator.

(d) Trade secrets as defined in subdivision (d) of Section 3426.1 of the Civil Code contained in the information provided to the system operators pursuant to this section shall be treated as confidential. These data may be disclosed only by the system operators and only by authorization of the generator except that the ~~California Energy Resources Conservation and Development Commission~~ *Department of Energy* shall have authorization to access these data, shall consider all these data to be trade secrets, and shall only release these data in an aggregated form such that trade secrets cannot be discerned.

SEC. 357. Section 398.5 of the Public Utilities Code is amended to read:

398.5. (a) Retail suppliers that disclose specific purchases pursuant to Section 398.4 shall report on June 1, 2009, and annually thereafter, to the ~~Energy Commission~~ *Department of Energy*, for each electricity offering for the previous calendar year, each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) For each electricity offering the kilowatthours sold at retail.

(3) For each electricity offering the disclosures made to consumers pursuant to Section 398.4.

(b) Information submitted to the ~~Energy Commission~~ *Department of Energy* pursuant to this section that is a trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code shall not be released except in an aggregated form such that trade secrets cannot be discerned.

(c) On or before January 1, 1998, the ~~Energy Commission~~ *Department of Energy* shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the ~~Energy Commission~~ *Department of Energy* shall seek to minimize the reporting burden and cost of reporting that it imposes on retail suppliers.

(e) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

(f) The ~~Energy Commission~~ *Department of Energy* may verify the veracity of environmental claims made by retail suppliers.

SEC. 358. Section 399.2.5 of the Public Utilities Code is amended to read:

399.2.5. (a) Notwithstanding any other provision in Sections 1001 to 1013, inclusive, an application *to the California Energy Board within the Department of Energy* of an electrical corporation for a certificate authorizing the construction of new transmission facilities shall be deemed to be necessary to the provision of electric service for purposes of any determination made under Section 1003 if the ~~commission~~ *California Energy Board within the Department of Energy* finds that the new facility is necessary to facilitate achievement of the renewable power goals established in Article 16 (commencing with Section 399.11).

(b) With respect to a transmission facility described in subdivision (a), the commission shall take all feasible actions to ensure that the transmission rates established by the Federal Energy Regulatory Commission are fully reflected in any retail rates established by the commission. These actions shall include, but are not limited to:

(1) Making findings, where supported by an evidentiary record, that those transmission facilities provide benefit to the transmission network and are necessary to facilitate the achievement of the renewables portfolio standard established in Article 16 (commencing with Section 399.11).

(2) Directing the utility to which the generator will be interconnected, where the direction is not preempted by federal law, to seek the recovery through general transmission rates of the costs associated with the transmission facilities.

(3) Asserting the positions described in paragraphs (1) and (2) to the Federal Energy Regulatory Commission in appropriate proceedings.

(4) Allowing recovery in retail rates of any increase in transmission costs incurred by an electrical corporation resulting from the construction of the transmission facilities that are not approved for recovery in transmission rates by the Federal Energy Regulatory Commission after the commission determines that the costs were prudently incurred in accordance with subdivision (a) of Section 454.

SEC. 359. Section 399.8 of the Public Utilities Code is amended to read:

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

(b) (1) Every customer of an electrical corporation shall pay a nonbypassable system benefits charge authorized pursuant to this article. The system benefits charge shall fund energy efficiency, renewable energy, and research, development, and demonstration.

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

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

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

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

(1) Two hundred twenty-eight million dollars ($228,000,000) per year in total for energy efficiency and conservation activities, sixty-five million five hundred thousand dollars ($65,500,000) in total per year for renewable energy, and sixty-two million five

hundred thousand dollars ($62,500,000) in total per year for research, development, and demonstration. The funds for energy efficiency and conservation activities shall continue to be allocated in proportions established for the year 2000 as set forth in paragraph (1) of subdivision (c) of Section 381.

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

(e) The commission shall ensure that each electrical corporation allocates funds transferred by the ~~Energy Commission~~ *Department of Energy* pursuant to subdivision (b) of Section 25743 in a manner that maximizes the economic benefit to all customer classes that funded the New Renewable Resources Account.

(f) The commission and the ~~Energy Commission~~ *Department of Energy* shall retain and continue their oversight responsibilities as set forth in Sections 381 and 383 *of this code*, and Chapter 7.1 (commencing with Section 25620) and Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(g) An applicant for the Large Nonresidential Standard Performance Contract Program funded pursuant to paragraph (1) of subdivision (b) and an electrical corporation shall promptly attempt to resolve disputes that arise related to the program's guidelines and parameters prior to entering into a program agreement. The applicant shall provide the electrical corporation with written notice of any dispute. Within 10 business days after receipt of the notice, the parties shall meet to resolve the dispute. If the dispute is not resolved within 10 business days after the date of the meeting, the electrical corporation shall notify the applicant of his or her right to file a complaint with the commission, which complaint shall describe the grounds for the complaint, injury, and relief sought. The commission shall issue its findings in response to a filed complaint within 30 business days of the date of receipt of the complaint. Prior to issuance of its findings, the commission shall provide a copy of the complaint to the electrical corporation, which shall provide a response to the complaint to the commission within five business days of the date of receipt. During the dispute period, the amount of estimated financial incentives shall be held in reserve until the dispute is resolved.

SEC. 360. Section 399.11 of the Public Utilities Code is amended to read:

399.11. The Legislature finds and declares all of the following:

(a) In order to attain a target of generating 20 percent of total retail sales of electricity in California from eligible renewable energy resources by December 31, 2010, and for the purposes of increasing the diversity, reliability, public health and environmental benefits of the energy mix, it is the intent of the Legislature that the commission and the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* implement the California Renewables Portfolio Standard Program described in this article.

(b) Increasing California's reliance on eligible renewable energy resources may promote stable electricity prices, protect public health, improve environmental quality, stimulate sustainable economic development, create new employment opportunities, and reduce reliance on imported fuels.

(c) The development of eligible renewable energy resources and the delivery of the electricity generated by those resources to customers in California may ameliorate air quality problems throughout the state and improve public health by reducing the burning of fossil fuels and the associated environmental impacts and by reducing in-state fossil fuel consumption.

(d) The California Renewables Portfolio Standard Program is intended to complement the Renewable Energy Resources Program administered by the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* and established pursuant to Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code.

(e) New and modified electric transmission facilities may be necessary to facilitate the state achieving its renewables portfolio standard targets.

SEC. 361. Section 399.12 of the Public Utilities Code is amended to read:

399.12. For purposes of this article, the following terms have the following meanings:

(a) "Conduit hydroelectric facility" means a facility for the generation of electricity that uses only the hydroelectric potential of an existing pipe, ditch, flume, siphon, tunnel, canal, or other manmade conduit that is operated to distribute water for a beneficial use.

(b) “Delivered” and “delivery” have the same meaning as provided in subdivision (a) of Section 25741 of the Public Resources Code.

(c) “Eligible renewable energy resource” means an electric generating facility that meets the definition of “in-state renewable electricity generation facility” in Section 25741 of the Public Resources Code, subject to the following limitations:

(1) (A) An existing small hydroelectric generation facility of 30 megawatts or less shall be eligible only if a retail seller or local publicly owned electric utility owned or procured the electricity from the facility as of December 31, 2005. A new hydroelectric facility is not an eligible renewable energy resource if it will cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(B) Notwithstanding subparagraph (A), a conduit hydroelectric facility of 30 megawatts or less that commenced operation before January 1, 2006, is an eligible renewable energy resource. A conduit hydroelectric facility of 30 megawatts or less that commences operation after December 31, 2005, is an eligible renewable energy resource so long as it does not cause an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(2) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996.

(d) “Procure” means that a retail seller or local publicly owned electric utility receives delivered electricity generated by an eligible renewable energy resource that it owns or for which it has entered into an electricity purchase agreement. Nothing in this article is intended to imply that the purchase of electricity from third parties in a wholesale transaction is the preferred method of fulfilling a retail seller’s obligation to comply with this article or the obligation of a local publicly owned electric utility to meet its renewables portfolio standard implemented pursuant to Section 387.

(e) “Renewables portfolio standard” means the specified percentage of electricity generated by eligible renewable energy resources that a retail seller is required to procure pursuant to this article or the obligation of a local publicly owned electric utility to meet its renewables portfolio standard implemented pursuant to Section 387.

(f) (1) "Renewable energy credit" means a certificate of proof, issued through the accounting system established by the ~~Energy Commission~~ *Department of Energy* pursuant to Section 399.13, that one unit of electricity was generated and delivered by an eligible renewable energy resource.

(2) "Renewable energy credit" includes all renewable and environmental attributes associated with the production of electricity from the eligible renewable energy resource, except for an emissions reduction credit issued pursuant to Section 40709 of the Health and Safety Code and any credits or payments associated with the reduction of solid waste and treatment benefits created by the utilization of biomass or biogas fuels.

(3) No electricity generated by an eligible renewable energy resource attributable to the use of nonrenewable fuels, beyond a de minimis quantity, as determined by the ~~Energy Commission~~ *Department of Energy*, shall result in the creation of a renewable energy credit.

(g) "Retail seller" means an entity engaged in the retail sale of electricity to end-use customers located within the state, including any of the following:

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard program subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3, for all sales of electricity to customers beginning January 1, 2006. The commission shall institute a rulemaking to determine the manner in which electric service providers will participate in the renewables portfolio standard program. The electric service provider shall be subject to the same terms and conditions applicable to an electrical corporation pursuant to this article. ~~Nothing in this~~ *This* paragraph ~~shall~~ *does not* impair a contract entered into between an electric service provider and a retail customer prior to the suspension of direct access by the commission pursuant to Section 80110 of the Water Code.

(4) "Retail seller" does not include any of the following:

(A) A corporation or person employing cogeneration technology or producing electricity consistent with subdivision (b) of Section 218.

(B) The Department of Water Resources acting in its capacity pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(C) A local publicly owned electric utility.

SEC. 362. Section 399.12.5 of the Public Utilities Code is amended to read:

399.12.5. (a) Notwithstanding subdivision (c) of Section 399.12, a small hydroelectric generation facility that satisfies the criteria for an eligible renewable energy resource pursuant to Section 399.12 shall not lose its eligibility if efficiency improvements undertaken after January 1, 2008, cause the generating capacity of the facility to exceed 30 megawatts, and the efficiency improvements do not result in an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow. The entire generating capacity of the facility shall be eligible.

(b) Notwithstanding subdivision (c) of Section 399.12, the incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility, is electricity from an eligible renewable energy resource, without regard to the electrical output of the facility, if all of the following conditions are met:

(1) The incremental increase is the result of efficiency improvements from a retrofit that do not result in an adverse impact on instream beneficial uses or cause a change in the volume or timing of streamflow.

(2) The hydroelectric generation facility has, within the immediately preceding 15 years, received certification from the State Water Resources Control Board pursuant to Section 401 of the Clean Water Act (33 U.S.C. Sec. 1341), or has received certification from a regional board to which the state board has delegated authority to issue certification, unless the facility is exempt from certification because there is no potential for discharge into waters of the United States.

(3) The hydroelectric generation facility was operational prior to January 1, 2007, the efficiency improvements are initiated on or after January 1, 2008, the efficiency improvements are not the

result of routine maintenance activities, as determined by the ~~Energy Commission~~ *Department of Energy, by action of the California Energy Board*, and the efficiency improvements were not included in any resource plan sponsored by the facility owner prior to January 1, 2008.

(4) All of the incremental increase in electricity resulting from the efficiency improvements are demonstrated to result from a long-term financial commitment by the retail seller or local publicly owned electric utility. For purposes of this paragraph, "long-term financial commitment" means either new ownership investment in the facility by the retail seller or local publicly owned electric utility or a new or renewed contract with a term of 10 or more years, which includes procurement of the incremental generation.

(c) The incremental increase in the amount of electricity generated from a hydroelectric generation facility as a result of efficiency improvements at the facility are not eligible for supplemental energy payments pursuant to the Renewable Energy Resources Program (Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code), or a successor program.

SEC. 363. Section 399.13 of the Public Utilities Code is amended to read:

399.13. The ~~Energy Commission~~ *Department of Energy, by action of the California Energy Board*, shall do all of the following:

(a) Certify eligible renewable energy resources that it determines meet the criteria described in subdivision (b) of Section 399.12.

(b) Design and implement an accounting system to verify compliance with the renewables portfolio standard by retail sellers, to ensure that electricity generated by an eligible renewable energy resource is counted only once for the purpose of meeting the renewables portfolio standard of this state or any other state, to certify renewable energy credits produced by eligible renewable energy resources, and to verify retail product claims in this state or any other state. In establishing the guidelines governing this accounting system, the ~~Energy Commission~~ *Department of Energy* shall collect data from electricity market participants that it deems necessary to verify compliance of retail sellers, in accordance with the requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the ~~Energy Commission~~ *Department of Energy* shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the ~~Energy Commission~~ *Department of Energy* within 90 days of the request.

(c) Establish a system for tracking and verifying renewable energy credits that, through the use of independently audited data, verifies the generation and delivery of electricity associated with each renewable energy credit and protects against multiple counting of the same renewable energy credit. The ~~Energy Commission~~ *Department of Energy* shall consult with other western states and with the Western Electricity Coordinating Council in the development of this system.

(d) Certify, for purposes of compliance with the renewable portfolio standard requirements by a retail seller, the eligibility of renewable energy credits associated with deliveries of electricity by an eligible renewable energy resource to a local publicly owned electric utility, if the ~~Energy Commission~~ *Department of Energy* determines that the following conditions have been satisfied:

(1) The local publicly owned electric utility that is procuring the electricity is in compliance with the requirements of Section 387.

(2) The local publicly owned electric utility has established an annual renewables portfolio standard target comparable to those applicable to an electrical corporation, is procuring sufficient eligible renewable energy resources to satisfy the targets, and will not fail to satisfy the targets in the event that the renewable energy credit is sold to another retail seller.

SEC. 364. Section 399.15 of the Public Utilities Code is amended to read:

399.15. (a) In order to fulfill unmet long-term resource needs, the commission shall establish a renewables portfolio standard requiring all electrical corporations to procure a minimum quantity of electricity generated by eligible renewable energy resources as a specified percentage of total kilowatthours sold to their retail end-use customers each calendar year, subject to limits on the total amount of costs expended above the market prices determined in subdivision (c), to achieve the targets established under this article.

(b) The commission shall implement annual procurement targets for each retail seller as follows:

(1) Each retail seller shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2010. A retail seller with 20 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of renewable energy resources in the following year.

(2) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each retail seller based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and to the extent applicable, adjusted going forward pursuant to Section 399.12.

(3) Only for purposes of establishing these targets, the commission shall include all electricity sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

(4) In the event that a retail seller fails to procure sufficient eligible renewable energy resources in a given year to meet any annual target established pursuant to this subdivision, the retail seller shall procure additional eligible renewable energy resources in subsequent years to compensate for the shortfall, subject to the limitation on costs for electrical corporations established pursuant to subdivision (d).

(c) The commission shall establish a methodology to determine the market price of electricity for terms corresponding to the length of contracts with eligible renewable energy resources, in consideration of the following:

(1) The long-term market price of electricity for fixed price contracts, determined pursuant to an electrical corporation's general procurement activities as authorized by the commission.

(2) The long-term ownership, operating, and fixed-price fuel costs associated with fixed-price electricity from new generating facilities.

(3) The value of different products including baseload, peaking, and as-available electricity.

(d) The commission shall establish, for each electrical corporation, a limitation on the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources to achieve the annual procurement targets established under this article.

(1) The cost limitation shall be equal to the amount of funds transferred to each electrical corporation by the *former State* Energy *Resources Conservation and Development* Commission pursuant to subdivision (b) of Section 25743 of the Public Resources Code and the 51.5 percent of the funds which would have been collected through January 1, 2012, from the customers of the electrical corporation based on the renewable energy public goods charge in effect as of January 1, 2007.

(2) The above-market costs of a contract selected by an electrical corporation may be counted toward the cost limitation if all of the following conditions are satisfied:

(A) The contract has been approved by the commission and was selected through a competitive solicitation pursuant to the requirements of subdivision (d) of Section 399.14.

(B) The contract covers a duration of no less than 10 years.

(C) The contracted project is a new or repowered facility commencing commercial operations on or after January 1, 2005.

(D) No purchases of renewable energy credits may be eligible for consideration as an above-market cost.

(E) The above-market costs of a contract do not include any indirect expenses including imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades.

(3) If the cost limitation for an electrical corporation is insufficient to support the total costs expended above the market prices determined in subdivision (c) for the procurement of eligible renewable energy resources satisfying the conditions of paragraph (2), the commission shall allow the electrical corporation to limit its procurement to the quantity of eligible renewable energy resources that can be procured at or below the market prices established in subdivision (c).

(4) ~~Nothing in this~~ *This* section ~~prevents~~ *does not prevent* an electrical corporation from voluntarily proposing to procure eligible renewable energy resources at above-market prices that are not counted toward the cost limitation. Any voluntary procurement involving above-market costs shall be subject to commission approval prior to the expense being recovered in rates.

(e) The establishment of a renewables portfolio standard shall not constitute implementation by the commission of the federal Public Utility Regulatory Policies Act of 1978 (Public Law 95-617).

(f) The commission shall consult with the ~~Energy Commission~~ *Department of Energy* in calculating market prices under subdivision (c) and establishing other renewables portfolio standard policies.

SEC. 365. Section 399.16 of the Public Utilities Code is amended to read:

399.16. (a) The commission, by rule, may authorize the use of renewable energy credits to satisfy the requirements of the renewables portfolio standard established pursuant to this article, subject to the following conditions:

(1) Prior to authorizing any renewable energy credit to be used toward satisfying annual procurement targets, the commission and the ~~Energy Commission~~ *Department of Energy, by action of the California Energy Board*, shall conclude that the tracking system established pursuant to subdivision (c) of Section 399.13, is operational, is capable of independently verifying the electricity generated by an eligible renewable energy resource and delivered to the retail seller, and can ensure that renewable energy credits shall not be double counted by any seller of electricity within the service territory of the Western Electricity Coordinating Council (WECC).

(2) A renewable energy credit shall be counted only once for compliance with the renewables portfolio standard of this state or any other state, or for verifying retail product claims in this state or any other state.

(3) The electricity is delivered to a retail seller, the Independent System Operator, or a local publicly owned electric utility.

(4) All revenues received by an electrical corporation for the sale of a renewable energy credit shall be credited to the benefit of ratepayers.

(5) ~~No renewable~~ *Renewable* energy credits shall *not* be created for electricity generated pursuant to any electricity purchase contract with a retail seller or a local publicly owned electric utility executed before January 1, 2005, unless the contract contains explicit terms and conditions specifying the ownership or disposition of those credits. Deliveries under those contracts shall

be tracked through the accounting system described in subdivision (b) of Section 399.13 and included in the baseline quantity of eligible renewable energy resources of the purchasing retail seller pursuant to Section 399.15.

(6) ~~No renewable~~ *Renewable* energy credits shall *not* be created for electricity generated under any electricity purchase contract executed after January 1, 2005, pursuant to the federal Public Utility Regulatory Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries under the electricity purchase contracts shall be tracked through the accounting system described in subdivision (b) of Section 399.12 and count toward the renewables portfolio standard obligations of the purchasing retail seller.

(7) The commission may limit the quantity of renewable energy credits that may be procured unbundled from electricity generation by any retail seller, to meet the requirements of this article.

(8) ~~No~~ *An* electrical corporation shall *not* be obligated to procure renewable energy credits to satisfy the requirements of this article in the event that the total costs expended above the applicable market prices for the procurement of eligible renewable energy resources exceeds the cost limitation established pursuant to subdivision (d) of Section 399.15.

(9) Any additional condition that the commission determines is reasonable.

(b) The commission shall allow an electrical corporation to recover the reasonable costs of purchasing renewable energy credits in rates.

SEC. 366. Section 399.17 of the Public Utilities Code is amended to read:

399.17. (a) Subject to the provisions of this section, the requirements of this article apply to an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California.

(b) For an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, an eligible renewable energy resource includes a facility that is located outside California, if the facility is connected to the Western Electricity Coordinating Council (WECC) transmission system, provided all of the following conditions are met:

(1) The electricity generated by the facility is procured by the electrical corporation on behalf of its California customers~~,~~ and is

not used to fulfill renewable energy procurement requirements in other states.

(2) The electrical corporation participates in, and complies with, the accounting system administered by the ~~Energy Commission~~ *Department of Energy, by action of the California Energy Board,* pursuant to subdivision (b) of Section 399.13.

(3) The ~~Energy Commission~~ *Department of Energy, by action of the California Energy Board,* verifies that the electricity generated by the facility is eligible to meet the annual procurement targets of this article.

(c) The commission shall determine the annual procurement targets for an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, as a specified percentage of total kilowatthours sold by the electrical corporation to its retail end-use customers in California in a calendar year.

(d) An electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, may use an integrated resource plan prepared in compliance with the requirements of another state utility regulatory commission, to fulfill the requirement to prepare a renewable energy procurement plan pursuant to this article, provided the plan meets the requirements of Sections 399.11, 399.12, 399.13, and 399.14, as modified by this section.

(e) Procurement and administrative costs associated with long-term contracts entered into by an electrical corporation with 60,000 or fewer customer accounts in California that serves retail end-use customers outside California, for eligible renewable energy resources pursuant to this article, at or below the market price determined by the commission pursuant to subdivision (c) of Section 399.15, shall be deemed reasonable per se, and shall be recoverable in rates of the electrical corporation's California customers, provided the costs are not recoverable in rates in other states served by the electrical corporation.

SEC. 367. Section 411 is added to the Public Utilities Code, to read:

411. All fees collected by the commission from electrical corporations and gas corporations to support those functions of the commission in reviewing and issuing certificates of public convenience and necessity that are transferred to the California

Energy Board within the Department of Energy pursuant to subdivision (b) of Section 1001, shall be identified and transferred to the Secretary of Energy, at least quarterly, upon the assumption by the department of those functions.

SEC. 368. Section 454.5 of the Public Utilities Code is amended to read:

454.5. (a) The commission shall specify the allocation of electricity, including quantity, characteristics, and duration of electricity delivery, that the Department of Water Resources shall provide under its power purchase agreements to the customers of each electrical corporation, which shall be reflected in the electrical corporation's proposed procurement plan. Each electrical corporation shall file a proposed procurement plan with the commission not later than 60 days after the commission specifies the allocation of electricity. The proposed procurement plan shall specify the date that the electrical corporation intends to resume procurement of electricity for its retail customers, consistent with its obligation to serve. After the commission's adoption of a procurement plan, the commission shall allow not less than 60 days before the electrical corporation resumes procurement pursuant to this section.

(b) An electrical corporation's proposed procurement plan shall include, but not be limited to, all of the following:

(1) An assessment of the price risk associated with the electrical corporation's portfolio, including any utility-retained generation, existing power purchase and exchange contracts, and proposed contracts or purchases under which an electrical corporation will procure electricity, electricity demand reductions, and electricity-related products and the remaining open position to be served by spot market transactions.

(2) A definition of each electricity product, electricity-related product, and procurement related financial product, including support and justification for the product type and amount to be procured under the plan.

(3) The duration of the plan.

(4) The duration, timing, and range of quantities of each product to be procured.

(5) A competitive procurement process under which the electrical corporation may request bids for procurement-related

services, including the format and criteria of that procurement process.

(6) An incentive mechanism, if any incentive mechanism is proposed, including the type of transactions to be covered by that mechanism, their respective procurement benchmarks, and other parameters needed to determine the sharing of risks and benefits.

(7) The upfront standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to execution of the transaction. This shall include an expedited approval process for the commission's review of proposed contracts and subsequent approval or rejection thereof. The electrical corporation shall propose alternative procurement choices in the event a contract is rejected.

(8) Procedures for updating the procurement plan.

(9) A showing that the procurement plan will achieve the following:

(A) The electrical corporation will, in order to fulfill its unmet resource needs and in furtherance of Section 701.3, until a 20 percent renewable resources portfolio is achieved, procure renewable energy resources with the goal of ensuring that at least an additional 1 percent per year of the electricity sold by the electrical corporation is generated from renewable energy resources, provided sufficient funds are made available pursuant to Sections 399.6 and 399.15, to cover the above-market costs for new renewable energy resources.

(B) The electrical corporation will create or maintain a diversified procurement portfolio consisting of both short-term and long-term electricity and electricity-related and demand reduction products.

(C) The electrical corporation will first meet its unmet resource needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible.

(10) The electrical corporation's risk management policy, strategy, and practices, including specific measures of price stability.

(11) A plan to achieve appropriate increases in diversity of ownership and diversity of fuel supply of nonutility electrical generation.

(12) A mechanism for recovery of reasonable administrative costs related to procurement in the generation component of rates.

(c) The commission shall review and accept, modify, or reject each electrical corporation's procurement plan. The commission's review shall consider each electrical corporation's individual procurement situation, and shall give strong consideration to that situation in determining which one or more of the features set forth in this subdivision shall apply to that electrical corporation. A procurement plan approved by the commission shall contain one or more of the following features, provided that the commission may not approve a feature or mechanism for an electrical corporation if it finds that the feature or mechanism would impair the restoration of an electrical corporation's creditworthiness or would lead to a deterioration of an electrical corporation's creditworthiness:

(1) A competitive procurement process under which the electrical corporation may request bids for procurement-related services. The commission shall specify the format of that procurement process, as well as criteria to ensure that the auction process is open and adequately subscribed. Any purchases made in compliance with the commission-authorized process shall be recovered in the generation component of rates.

(2) An incentive mechanism that establishes a procurement benchmark or benchmarks and authorizes the electrical corporation to procure from the market, subject to comparing the electrical corporation's performance to the commission-authorized benchmark or benchmarks. The incentive mechanism shall be clear, achievable, and contain quantifiable objectives and standards. The incentive mechanism shall contain balanced risk and reward incentives that limit the risk and reward of an electrical corporation.

(3) Upfront achievable standards and criteria by which the acceptability and eligibility for rate recovery of a proposed procurement transaction will be known by the electrical corporation prior to the execution of the bilateral contract for the transaction. The commission shall provide for expedited review and either approve or reject the individual contracts submitted by the electrical corporation to ensure compliance with its procurement plan. To the extent the commission rejects a proposed contract pursuant to this criteria, the commission shall designate alternative procurement

choices obtained in the procurement plan that will be recoverable for ratemaking purposes.

(d) A procurement plan approved by the commission shall accomplish each of the following objectives:

(1) Enable the electrical corporation to fulfill its obligation to serve its customers at just and reasonable rates.

(2) Eliminate the need for after-the-fact reasonableness reviews of an electrical corporation's actions in compliance with an approved procurement plan, including resulting electricity procurement contracts, practices, and related expenses. However, the commission may establish a regulatory process to verify and ~~assure~~ *ensure* that each contract was administered in accordance with the terms of the contract, and contract disputes which may arise are reasonably resolved.

(3) Ensure timely recovery of prospective procurement costs incurred pursuant to an approved procurement plan. The commission shall establish rates based on forecasts of procurement costs adopted by the commission, actual procurement costs incurred, or combination thereof, as determined by the commission. The commission shall establish power procurement balancing accounts to track the differences between recorded revenues and costs incurred pursuant to an approved procurement plan. The commission shall review the power procurement balancing accounts, not less than semiannually, and shall adjust rates or order refunds, as necessary, to promptly amortize a balancing account, according to a schedule determined by the commission. Until January 1, 2006, the commission shall ensure that any overcollection or undercollection in the power procurement balancing account does not exceed 5 percent of the electrical corporation's actual recorded generation revenues for the prior calendar year excluding revenues collected for the Department of Water Resources. The commission shall determine the schedule for amortizing the overcollection or undercollection in the balancing account to ensure that the 5 percent threshold is not exceeded. After January 1, 2006, this adjustment shall occur when deemed appropriate by the commission consistent with the objectives of this section.

(4) Moderate the price risk associated with serving its retail customers, including the price risk embedded in its long-term

supply contracts, by authorizing an electrical corporation to enter into financial and other electricity-related product contracts.

(5) Provide for just and reasonable rates, with an appropriate balancing of price stability and price level in the electrical corporation's procurement plan.

(e) The commission shall provide for the periodic review and prospective modification of an electrical corporation's procurement plan.

(f) The commission may engage an independent consultant or advisory service to evaluate risk management and strategy. The reasonable costs of any consultant or advisory service is a reimbursable expense and eligible for funding pursuant to Section 631.

(g) The commission shall adopt appropriate procedures to ensure the confidentiality of any market sensitive information submitted in an electrical corporation's proposed procurement plan or resulting from or related to its approved procurement plan, including, but not limited to, proposed or executed power purchase agreements, data request responses, or consultant reports, or any combination, provided that the Office of Ratepayer Advocates and other consumer groups that are nonmarket participants shall be provided access to this information under confidentiality procedures authorized by the commission.

(h) ~~Nothing in this section alters, modifies, or amends~~ *This section does not alter, modify, or amend* the commission's oversight of affiliate transactions under its rules and decisions or the commission's existing authority to investigate and penalize an electrical corporation's alleged fraudulent activities, or to disallow costs incurred as a result of gross incompetence, fraud, abuse, or similar grounds. ~~Nothing in this section expands, modifies, or limits~~ *This section does not expand, modify, or limit* the ~~State Energy Resources Conservation and Development Commission's~~ *Department of Energy's* existing authority and responsibilities as set forth in Sections 25216, 25216.5, and 25323 of the Public Resources Code.

(i) An electrical corporation that serves less than 500,000 electric retail customers within the state may file with the commission a request for exemption from this section, which the commission shall grant upon a showing of good cause.

(j) (1) Prior to its approval pursuant to Section 851 of any divestiture of generation assets owned by an electrical corporation on or after ~~the date of enactment of the act adding this section~~ *September 24, 2002,* the commission shall determine the impact of the proposed divestiture on the electrical corporation's procurement rates and shall approve a divestiture only to the extent it finds, taking into account the effect of the divestiture on procurement rates, that the divestiture is in the public interest and will result in net ratepayer benefits.

(2) Any electrical corporation's procurement necessitated as a result of the divestiture of generation assets on or after ~~the effective date of the act adding this subdivision~~ *September 24, 2002,* shall be subject to the mechanisms and procedures set forth in this section only if its actual cost is less than the recent historical cost of the divested generation assets.

(3) Notwithstanding paragraph (2), the commission may deem proposed procurement eligible to use the procedures in this section upon its approval of asset divestiture pursuant to Section 851.

SEC. 369. Section 464 of the Public Utilities Code is amended to read:

464. (a) Reasonable expenditures by transmission owners that are electrical corporations to plan, design, and engineer reconfiguration, replacement, or expansion of transmission facilities are in the public interest and are deemed prudent if made for the purpose of facilitating competition in electric generation markets, ensuring open access and comparable service, or maintaining or enhancing reliability, whether or not these expenditures are for transmission facilities that become operational.

(b) The commission and the ~~Electricity~~ *Office of Energy Market* Oversight ~~Board~~ *in the Department of Energy* shall jointly facilitate the efforts of the state's transmission owning electrical corporations to obtain authorization from the Federal Energy Regulatory Commission to recover reasonable expenditures made for the purposes stated in subdivision (a).

(c) ~~Nothing in this section alters or affects~~ *This section does not alter or affect* the recovery of the reasonable costs of other electric facilities in rates pursuant to the commission's existing ratemaking authority under this code or pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs. 791a, et seq.). The commission may periodically review and adjust depreciation schedules and rates authorized for an electric plant that is under the jurisdiction of the commission and owned by an electrical corporation and periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by a gas corporation, consistent with this code.

SEC. 370. Section 848.1 of the Public Utilities Code is amended to read:

848.1. (a) No later than 120 days after the effective date of this article, and from time to time thereafter, the recovery corporation shall apply to the commission for a determination that some or all of the recovery corporation's recovery costs may be recovered through fixed recovery amounts, which would be recovery property under this article, and that any portion of the recovery corporation's federal and State of California income and franchise taxes associated with those fixed recovery amounts and not financed from proceeds of recovery bonds be recovered through fixed recovery tax amounts. The recovery corporation may request this determination by the commission in a separate proceeding or in an existing proceeding, or both. The recovery corporation shall in its application specify that consumers within its service territory would benefit from reduced rates on a present value basis through the issuance of recovery bonds. The commission shall designate fixed recovery amounts and any associated fixed recovery tax amounts as recoverable in one or more financing orders if the commission determines, as part of its findings in connection with the financing order, that the designation of the fixed recovery amounts and any associated fixed recovery tax amounts, and the issuance of recovery bonds in connection with fixed recovery amounts, would reduce the rates on a present value basis that consumers within the recovery corporation's service territory would pay if the financing order were not adopted. Fixed recovery amounts and any associated fixed recovery tax amounts shall only be imposed on existing and future consumers in the service territory. Consumers within the service territory shall continue to pay fixed recovery amounts and any associated fixed tax recovery amounts until the recovery bonds are paid in full by the financing entity. Once the recovery bonds have been paid in full, the payment by consumers of fixed recovery amounts and fixed recovery tax amounts shall terminate.

(b) The commission shall establish an effective mechanism that ensures recovery of recovery costs through fixed recovery amounts and any associated fixed recovery tax amounts from existing and future consumers in the service territory, provided that the costs shall not be recoverable from any of the following:

(1) New load or incremental load of an existing consumer of the recovery corporation where the load is being met through a direct transaction and the transaction does not require the use of transmission or distribution facilities owned by the recovery corporation.

(2) Customer ~~Generation~~ *generation* departing load that is exempt from Department of Water Resources power charges pursuant to the commission's Decision No. 03-04-030, as modified by Decision No. 03-04-041, and as clarified and affirmed by Decision No. 03-05-039, except that the load shall pay the costs as a component of and in proportion to any purchase of electricity delivered by the recovery corporation under standby or other service made following its departure.

(3) The Department of Water Resources*, or its successor, the Department of Energy*, with respect to the pumping, generation, and transmission facilities and operations of the State Water Resources Development System, except to the extent that system facilities receive electric service from the recovery corporation on or after December 19, 2003, under a ~~commission approved~~ *commission-approved* tariff.

(4) Retail electric load, continuously served by a local publicly owned electric utility from January 1, 2000, through the effective date of the act adding this section.

(5) Load that ~~thereafter comes to~~ *subsequently* take electric service from a city where all the following conditions are met:

(A) The new load is from locations that never received electric service from the recovery corporation.

(B) The city owns and operates the local publicly owned electric utility.

(C) The local publicly owned electric utility served more than 95 percent of the customers receiving electric service residing within the city limits prior to December 19, 2003.

(D) The city annexed the territory in which the load is located on or after December 19, 2003.

(E) Following annexation, the city provides all municipal services to the annexed territory that the city provides to other territory within the city limits, including electric service.

(F) The total load exempt from paying fixed recovery amounts and associated fixed recovery tax amounts pursuant to subparagraphs (A) through (D), inclusive, does not exceed 50 megawatts, as determined by the commission, and any load above the 50 megawatt exemption amount shall be responsible for paying recovery amounts and associated fixed recovery tax amounts, except as provided in subdivision (c).

(c) Except as provided in paragraphs (4) and (5) of subdivision (b), the commission shall determine the extent to which fixed recovery amounts and any associated fixed recovery tax amounts are recoverable from new municipal load, consistent with the commission's determination in the limited rehearing granted in Decision 03-08-076. The determination of the commission shall be made on the earlier of the date it adopts a financing order or December 31, 2004.

(d) Except as provided in paragraphs (4) and (5) of subdivision (b) and in subdivision (c), the obligation to pay fixed recovery amounts and any associated fixed recovery tax amounts cannot be avoided by the formation of a local publicly owned electric utility on or after December 19, 2003, or by annexation of any portion of the service territory of the recovery corporation by an existing local publicly owned electric utility.

(e) Recovery bonds authorized by the commission's financing orders may be issued in one or more series on or before December 31, 2006.

(f) The commission may issue financing orders in accordance with this article to facilitate the recovery, financing, or refinancing of recovery costs. A financing order may be adopted only upon the application of the recovery corporation and shall become effective in accordance with its terms only after the recovery corporation files with the commission the recovery corporation's written consent to all terms and conditions of the financing order. A financing order may specify how amounts collected from a consumer shall be allocated between fixed recovery amounts, any associated fixed recovery tax amounts, and other charges.

(g) Notwithstanding Section 455.5 or 1708, or any other provision of law, except as otherwise provided in Section 848.7

or in this subdivision with respect to recovery property that has been made the basis for the issuance of recovery bonds and with respect to any associated fixed recovery tax amounts, the financing order, the fixed recovery amounts and any associated fixed recovery tax amounts shall be irrevocable, and the commission shall not have authority either by rescinding, altering, or amending the financing order or otherwise, to revalue or revise for ratemaking purposes, the recovery costs or the costs of recovering, financing, or refinancing the recovery costs, determine that the fixed recovery amounts, any associated fixed recovery tax amounts or rates are unjust or unreasonable, or in any way reduce or impair the value of recovery property or of the right to receive any associated fixed recovery tax amounts either directly or indirectly by taking fixed recovery amounts or any associated fixed recovery tax amounts into account when setting other rates for the recovery corporation or when setting charges for the Department of Water Resources, *or its successor, the Department of Energy*; nor shall the amount of revenues arising with respect thereto be subject to reduction, impairment, postponement, or termination. Except as otherwise provided in this subdivision, the State of California does hereby pledge and agree with the recovery corporation, owners of recovery property, and holders of recovery bonds that the state shall neither limit nor alter the fixed recovery amounts, any associated fixed recovery tax amounts, recovery property, financing orders, or any rights thereunder until the recovery bonds, together with the interest thereon, are fully paid and discharged, and any associated fixed recovery tax amounts have been satisfied or, in the alternative, have been refinanced through an additional issue of recovery bonds; provided nothing contained in this section shall preclude the limitation or alteration if and when adequate provision shall be made by law for the protection of the recovery corporation, owners, and holders. The financing entity is authorized to include this pledge and undertaking for the state in these recovery bonds. Notwithstanding any other provision of this section, the commission shall approve adjustments to the fixed recovery amounts and any associated fixed recovery tax amounts as may be necessary to ensure timely recovery of all recovery costs that are the subject of the pertinent financing order, and the costs of capital associated with the recovery, financing, or refinancing thereof, including servicing and retiring the recovery bonds contemplated by the financing order. When setting other rates for the recovery corporation, ~~nothing in~~ this subdivision ~~shall~~ *does not* prevent the commission from taking into account either of the following:

(1) Any collection of fixed recovery amounts in excess of amounts actually required to pay recovery costs financed or refinanced by recovery bonds.

(2) Any collection of fixed recovery tax amounts in excess of amounts actually required to pay federal and State of California income and franchise taxes associated with fixed recovery amounts; provided that this would not result in a recharacterization of the tax, accounting, and other intended characteristics of the financing, including, but not limited to, either of the following:

(A) Treating the recovery bonds as debt of the recovery corporation or its affiliates for federal income tax purposes.

(B) Treating the transfer of the recovery property by the recovery corporation as a true sale for bankruptcy purposes.

(h) (1) Financing orders issued under this article do not constitute a debt or liability of the state or of any political subdivision thereof, and do not constitute a pledge of the full faith and credit of the state or any of its political subdivisions, but are payable solely from the funds provided therefor under this article and shall be consistent with Sections 1 and 18 of Article XVI of the California Constitution. This subdivision shall in no way preclude bond guarantees or enhancements pursuant to this article. All recovery bonds shall contain on the face thereof a statement to the following effect: "Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of, or interest on, this bond."

(2) The issuance of recovery bonds under this article shall not directly, indirectly, or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation therefor or to make any appropriation for their payment.

(i) The commission shall establish procedures for the expeditious processing of applications for financing orders, including the approval or disapproval thereof within 120 days of the recovery corporation making application therefor. The commission shall provide in any financing order for a procedure for the expeditious approval by the commission of periodic adjustments to the fixed recovery amounts and any associated fixed recovery tax amounts that are the subject of the pertinent financing order, as required by subdivision (g). The procedure shall require the commission to determine whether the adjustments are required on each anniversary of the issuance of the financing order, and at the additional intervals as may be provided for in the financing order, and for the adjustments, if required, to be approved within 90 days of each anniversary of the issuance of the financing order, or of each additional interval provided for in the financing order.

(j) Fixed recovery amounts are recovery property when, and to the extent that, a financing order authorizing the fixed recovery amounts has become effective in accordance with this article, and the recovery property shall thereafter continuously exist as property for all purposes with all of the rights and privileges of this article for the period and to the extent provided in the financing order, but in any event until the recovery bonds are paid in full, including all principal, interest, premium, costs, and arrearages thereon.

(k) This article and any financing order made pursuant to this article do not amend, reduce, modify, or otherwise affect the right of the Department of Water Resources*, or its successor, the Department of Energy,* to recover its revenue requirements and to receive the charges that it is to recover and receive pursuant to Division 27 (commencing with Section 80000) of the Water Code, or pursuant to any agreement entered into by the commission and the ~~Department of Water Resources~~ *department* pursuant to that division.

SEC. 371. Section 1001 of the Public Utilities Code is amended to read:

1001. ~~No~~ *(a) (1) A* railroad corporation whose railroad is operated primarily by electric energy, *or a* street railroad corporation, gas corporation, electrical corporation, telegraph corporation, telephone corporation, water corporation, or sewer system corporation shall *not* begin the construction of a street railroad, or of a line, plant, or system, or of any extension thereof, without having first obtained from the commission a certificate that the present or future public convenience and necessity require or will require ~~such~~ *that* construction.

~~This~~

(2) This article shall not be construed to require any ~~such~~ corporation *described in paragraph (1)* to secure such certificate for an extension within any city or city and county within which

it has theretofore lawfully commenced operations, or for an extension into territory either within or without a city or city and county contiguous to its street railroad, or line, plant, or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business. If any public utility, in constructing or extending its line, plant, or system, interferes or is about to interfere with the operation of the line, plant, or system of any other public utility or of the water system of a public agency, already constructed, the commission, on complaint of the public utility or public agency claiming to be injuriously affected, may, after hearing, make ~~such~~ *an* order and prescribe ~~such~~ terms and conditions for the location of the lines, plants, or systems affected as ~~to it~~ may seem just and reasonable.

(b) Notwithstanding subdivision (a) or any other provision of law, all responsibilities of the commission with respect to the certification of an electric transmission line, plant, or system, or any extension thereof, carrying electricity to the interconnected grid, or that is part of the interconnected grid, but not including electric distribution facilities, are hereby transferred to the exclusive jurisdiction of the California Energy Board within the Department of Energy. All applications for certification regarding a line, facility, plant, or system described in this subdivision shall be heard and decided by the California Energy Board. A decision of the department or the California Energy Board with respect to matters transferred pursuant to this subdivision shall be conclusive as to all matters determined.

(c) For the purposes of this section, an electric line, plant, or system, or extension thereof, shall be considered "electric transmission" for either of the following:

(1) It has a maximum rated voltage of 200 kilovolts or greater.

(2) It has a maximum rated voltage of 100 kilovolts or greater and certification is sought following inclusion of that facility as an element of a final transmission expansion plan for the Independent System Operator.

(d) In hearing and deciding an application pursuant to this section, the California Energy Board shall consider and make any necessary findings on all factors required by Sections 1001 to 1005.5, inclusive, and any other provision of law, including the anticipated effects of any proposed project on consumer rates, on

the environment, and on the public benefits expected to result from any project.

(e) The Department of Energy, in consultation with the Public Utilities Commission, shall promptly establish a mechanism for the Public Utilities Commission to timely advise the department regarding the retail rate impacts of the decision made by the California Energy Board and the department.

SEC. 372. Section 1731 of the Public Utilities Code is amended to read:

1731. (a) The commission shall set an effective date when issuing an order or decision. The commission may set the effective date of an order or decision prior to the date of issuance of the order or decision.

(b) (1) After any order or decision has been made by the commission, any party to the action or proceeding, or any stockholder or bondholder or other party pecuniarily interested in the public utility affected, may apply for a rehearing in respect to any matters determined in the action or proceeding and specified in the application for rehearing. The commission may grant and hold a rehearing on those matters, if in its judgment sufficient reason is made to appear. No cause of action arising out of any order or decision of the commission shall accrue in any court to any corporation or person unless the corporation or person has filed an application to the commission for a rehearing within 30 days after the date of issuance or within 10 days after the date of issuance in the case of an order issued pursuant to either Article 5 (commencing with Section 816) or Article 6 (commencing with Section 851) of Chapter 4 relating to security transactions and the transfer or encumbrance of utility property.

(2) The commission shall notify the parties of the issuance of an order or decision by either mail or electronic transmission. Notification of the parties may be accomplished by one of the following methods:

(A) Mailing the order or decision to the parties to the action or proceeding.

(B) If a party to an action or proceeding consents in advance to receive notice of any order or decision related to the action or proceeding by electronic mail address, notification of the party may be accomplished by transmitting an electronic copy of the official version of the order or decision to the party if the party has provided an electronic mail address to the commission.

(C) If a party to an action or proceeding consents in advance to receive notice of any order or decision related to the action or proceeding by electronic mail address, notification of the party may be accomplished by transmitting a link to an Internet Web site where the official version of the order or decision is readily available to the party if the party has provided an electronic mail address to the commission.

(3) For the purposes of this article, "date of issuance" means the mailing or electronic transmission date that is stamped on the official version of the order or decision

(c) No cause of action arising out of any order or decision of the commission construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session that (1) relates to the determination or implementation of the department's revenue requirements, or the establishment or implementation of bond or power charges necessary to recover those revenue requirements, or (2) in the sole determination of the Department of Water Resources, *or its successor, the Department of Energy*, the expedited review of *the* order or decision of the commission is necessary or desirable, for the maintenance of any credit ratings on any bonds or notes of the department issued pursuant to Division 27 (commencing with Section 80000) of the Water Code or for the department to meet its obligations with respect to any bonds or notes pursuant to that division, shall accrue in any court to any corporation or person unless the corporation or person has filed an application with the commission for a rehearing within 10 days after the date of issuance of the order or decision. The Department of Water Resources*, or its successor, the Department of Energy,* shall notify the commission of any determination pursuant to paragraph (2) of this subdivision prior to the issuance by the commission of any order or decision construing, applying, or implementing the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session. The commission shall issue its decision and order on rehearing within 20 days after the filing of the application.

SEC. 373. Section 1768 of the Public Utilities Code is amended to read:

1768. The following procedures shall apply to judicial review of an order or decision of the commission interpreting, implementing, or applying the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session that (1) relates to the determination or implementation of the revenue requirements of the Department of Water Resources, *or it successor, the Department of Energy,* or the establishment or implementation of bond or power charges necessary to recover those revenue requirements, or (2) in the sole determination of the department, the expedited review of an order or decision of the commission is necessary or desirable, for the maintenance of any credit ratings on any bonds or notes of the department issued pursuant to Division 27 (commencing with Section 80000) of the Water Code or for the department to meet its obligations with respect to any bonds or notes pursuant to that division:

(a) Within 30 days after the commission issues its order or decision denying the application for a rehearing, or, if the application is granted, then within 30 days after the commission issues its decision on rehearing, any aggrieved party may petition for a writ of review in the California Supreme Court for the purpose of determining the lawfulness of the original order or decision or of the order or decision on rehearing. If the writ issues, it shall be made returnable at a time and place specified by court order and shall direct the commission to certify its record in the case to the court within the time specified. No order of the commission interpreting, implementing, or applying the provisions of Chapter 4 of the Statutes of the 2001–02 First Extraordinary Session shall be subject to review in the courts of appeal.

(b) The petition for review shall be served upon the executive director and the general counsel of the commission either personally or by service at the office of the commission.

(c) For purposes of this section, the issuance of a decision or the granting of an application shall be construed to have occurred on the date of issuance, as defined in paragraph (4) of subdivision (b) of Section 1731.

(d) All actions and proceedings under this section and all actions or proceedings to which the commission or the people of the State of California are parties in which any question arises under this section, or under or concerning any order or decision of the commission under this section, shall be preferred over, and shall be heard and determined in preference to, all other civil business except election causes, irrespective of position on the calendar.

(e) The provisions of this article apply to actions under this section to the extent that those provisions are not in conflict with this section.

SEC. 374. Section 1822 of the Public Utilities Code is amended to read:

1822. (a) Any computer model that is the basis for any testimony or exhibit in a hearing or proceeding before the commission shall be available to, and subject to verification by, the commission and parties to the hearing or proceedings to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, except that verification is not required for any electricity demand model or forecast prepared by the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* pursuant to Section 25309 or 25402.1 of the Public Resources Code and approved and adopted after a hearing during which testimony was offered subject to cross-examination. The commission shall afford each of these electricity demand models or forecasts the evidentiary weight it determines appropriate. ~~Nothing in this~~ *This* subdivision ~~requires~~ *does not require* the ~~State Energy Resources Conservation and Development Commission~~ *department* to approve or adopt any electricity demand model or forecast.

(b) ~~Any testimony~~ *Testimony* presented in a hearing or proceeding before the commission that is based in whole, or in part, on a computer model shall include a listing of all the equations and assumptions built into the model.

(c) ~~Any data base~~ *A database* that is used for any testimony or exhibit in a hearing or proceeding before the commission shall be reasonably accessible to the commission staff and parties to the hearing or proceeding to the extent necessary for cross-examination or rebuttal, subject to applicable rules of evidence, as applied in commission proceedings.

(d) The commission shall adopt rules and procedures to meet the requirements specified in subdivisions (a), (b), and (c). These rules shall include procedural safeguards that protect ~~data bases~~ *databases* and models not owned by the public utility.

(e) The commission shall establish appropriate procedures for determining the appropriate level of compensation for a party's access.

(f) Each party shall have access to the computer programs and models of each other party to the extent provided by Section 1822. The commission shall not require a utility to provide a remote terminal or other direct physical link to the computer systems of a utility to a third party.

(g) The commission shall verify, validate, and review the computer models of any electric corporation that are used for the purpose of planning, operating, constructing, or maintaining the corporation's electricity transmission system, and that are the basis for testimony and exhibits in hearings and proceedings before the commission.

(h) The transmission computer models shall be available to, and subject to verification by, each party to a commission proceeding in accordance with subdivision (a) of Section 1822, and regulations adopted pursuant to subdivision (d) of Section 1822.

SEC. 375. Section 2774.6 of the Public Utilities Code is amended to read:

2774.6. The commission, in consultation with the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy*, shall develop a program for residential and commercial customer air-conditioning load control, as an element of each electrical corporation's tariffed service offerings paid for with electric rates. The goal of the program shall be to contribute to the adequacy of electricity supply and to help customers reduce their electric bills in a cost-effective manner. The program may include peak load reduction programs for residential and commercial air-conditioning systems, if the commission determines that the inclusion would be cost-effective.

SEC. 376. Section 2826.5 of the Public Utilities Code is amended to read:

2826.5. (a) As used in this section, the following terms have the following meanings:

(1) "Benefiting account" means an electricity account, or more than one account, mutually agreed upon by Pacific Gas and Electric Company and the City of Davis.

(2) "Bill credit" means credits calculated based upon the electricity generation component of the rate schedule applicable

to a benefiting account, as applied to the net metered quantities of electricity.

(3) "PVUSA" means the photovoltaic electricity generation facility selected by the City of Davis, located at 24662 County Road, Davis, California, with a rated peak electricity generation capacity of 600 kilowatts, and as it may be expanded, not to exceed one megawatt of peak generation capacity.

(4) "Net metered" means the electricity output from the PVUSA.

(5) "Environmental attributes" associated with the PVUSA include, but are not limited to, the credits, benefits, emissions reductions, environmental air quality credits, and emissions reduction credits, offsets, and allowances, however entitled resulting from the avoidance of the emission of any gas, chemical, or other substance attributable to the PVUSA.

(b) The City of Davis may elect to designate a benefiting account, or more than one account, to receive bill credit for the electricity generated by the PVUSA, if all of the following conditions are met:

(1) A benefiting account receives service under a time-of-use rate schedule.

(2) The electricity output of the PVUSA is metered for time of use to allow allocation of each bill credit to correspond to the time-of-use period of a benefiting account.

(3) All costs associated with the metering requirements of paragraphs (1) and (2) are the responsibility of the City of Davis.

(4) All electricity delivered to the electrical grid by the PVUSA is the property of Pacific Gas and Electric Company.

(5) PVUSA does not sell electricity delivered to the electrical grid to a third party.

(6) The right, title, and interest in the environmental attributes associated with the electricity delivered to the electrical grid by the PVUSA are the property of Nuon Renewable Ventures USA, LLC.

(c) A benefiting account shall be billed on a monthly basis, as follows:

(1) For all electricity usage, the rate schedule applicable to the benefiting account, including any surcharge, exit fee, or other cost recovery mechanism, as determined by the commission, to reimburse the Department of Water Resources, *or its successor, the Department of Energy,* for purchases of electricity, pursuant

to Division 27 (commencing with Section 80000) of the Water Code.

(2) The rate schedule for the benefiting account shall also provide credit for the generation component of the time-of-use rates for the electricity generated by the PVUSA that is delivered to the electrical grid. The generation component credited to the benefiting account may not include the surcharge, exit fee, or other cost recovery mechanism, as determined by the commission, to reimburse the Department of Water Resources, *or its successor, the Department of Energy,* for purchases of electricity, pursuant to Division 27 (commencing with Section 80000) of the Water Code.

(3) If in any billing cycle, the charge pursuant to paragraph (1) for electricity usage exceeds the billing credit pursuant to paragraph (2), the City of Davis shall be charged for the difference.

(4) If in any billing cycle, the billing credit pursuant to paragraph (2)~~,~~ exceeds the charge for electricity usage pursuant to paragraph (1), the difference shall be carried forward as a credit to the next billing cycle.

(5) After the electricity usage charge pursuant to paragraph (1) and the credit pursuant to paragraph (2) are determined for the last billing cycle of a calendar year, any remaining credit resulting from the application of this section shall be reset to zero.

(d) Not more frequently that once per year, and upon providing Pacific Gas and Electric Company with a minimum of 60 days notice, the City of Davis may elect to change a benefiting account. Any credit resulting from the application of this section earned prior to the change in a benefiting account that has not been used as of the date of the change in the benefit account, shall be applied, and may only be applied, to a benefiting account as changed.

(e) Pacific Gas and Electric Company shall file an advice letter with the Public Utilities Commission, that complies with this section, not later than 10 days after the effective date of this section, proposing a rate tariff for a benefiting account. The commission, within 30 days of the date of filing, shall approve the proposed tariff, or specify conforming changes to be made by Pacific Gas and Electric Company to be filed in a new advice letter.

(f) The City of Davis may terminate its election pursuant to subdivision (b), upon providing Pacific Gas and Electric Company with a minimum of 60 days notice. Should the City of Davis sell its interest in the PVUSA, or sell the electricity generated by the PVUSA, in a manner other than required by this section, upon the date of either event, and the earliest date if both events occur, no further bill credit pursuant to paragraph (2) of subdivision (b) may be earned. Only credit earned prior to that date shall be made to a benefiting account.

(g) The Legislature finds and declares that credit for a benefiting account for the electricity output from the PVUSA ~~are~~ *is* in the public interest in order to value the production of this unique, wholly renewable resource electricity generation facility located in, and owned in part by, the City of Davis. Because of the unique circumstances applicable only to the PVUSA, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

SEC. 377. Section 2827 of the Public Utilities Code is amended to read:

2827. (a) The Legislature finds and declares that a program to provide net energy metering combined with net surplus compensation, co-energy metering, and wind energy co-metering for eligible customer-generators is one way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure, enhance the continued diversification of California's energy resource mix, reduce interconnection and administrative costs for electricity suppliers, and encourage conservation and efficiency.

(b) As used in this section, the following terms have the following meanings:

(1) "Co-energy metering" means a program that is the same in all other respects as a net energy metering program, except that the local publicly owned electric utility has elected to apply a generation-to-generation energy and time-of-use credit formula as provided in subdivision (i).

(2) "Electrical cooperative" means an electrical cooperative as defined in Section 2776.

(3) "Electric utility" means an electrical corporation, a local publicly owned electric utility, or an electrical cooperative, or any other entity, except an electric service provider, that offers electrical

service. This section shall not apply to a local publicly owned electric utility that serves more than 750,000 customers and that also conveys water to its customers.

(4) "Eligible customer-generator" means a residential, small commercial customer as defined in subdivision (h) of Section 331, commercial, industrial, or agricultural customer of an electric utility, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than one megawatt that is located on the customer's owned, leased, or rented premises, and is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

(5) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivisions (c) and (h).

(6) "Net surplus customer-generator" means an eligible customer-generator that generates more electricity during a 12-month period than is supplied by the electric utility to the eligible customer-generator during the same 12-month period.

(7) "Net surplus electricity" means all electricity generated by an eligible customer-generator measured in kilowatthours over a 12-month period that exceeds the amount of electricity consumed by that eligible customer-generator.

(8) "Net surplus electricity compensation" means a per kilowatthour rate offered by the electric utility to the net surplus customer-generator for net surplus electricity that is set by the ratemaking authority pursuant to subdivision (h).

(9) "Ratemaking authority" means, for an electrical corporation or electrical cooperative, the commission, and for a local publicly owned electric utility, the local elected body responsible for setting the rates of the local publicly owned utility.

(10) "Wind energy co-metering" means any wind energy project greater than 50 kilowatts, but not exceeding one megawatt, where the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period is as described in subdivision (h). Wind energy co-metering shall be accomplished pursuant to Section 2827.8.

(c) (1) Every electric utility shall develop a standard contract or tariff providing for net energy metering, and shall make this standard contract or tariff available to eligible customer-generators, upon request, on a first-come-first-served basis until the time that the total rated generating capacity used by eligible customer-generators exceeds 2.5 percent of the electric utility's aggregate customer peak demand. Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in two directions. An additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the eligible customer-generator, at the expense of the electric utility, and the additional metering shall be used only to provide the information necessary to accurately bill or credit the eligible customer-generator pursuant to subdivision (h), or to collect solar or wind electric generating system performance information for research purposes. If the existing electrical meter of an eligible customer-generator is not capable of measuring the flow of electricity in two directions, the eligible customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure electricity flow in two directions. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter. An eligible customer-generator that is receiving service other than through the standard contract or tariff may elect to receive service through the standard contract or tariff until the electric utility reaches the generation limit set forth in this paragraph. Once the generation limit is reached, only eligible customer-generators that had previously elected to receive service pursuant to the standard contract or tariff have a right to continue to receive service pursuant to the standard contract or tariff. Eligibility for net energy metering does not limit an eligible customer-generator's eligibility for any other rebate, incentive, or credit provided by the electric utility, or pursuant to any governmental program, including rebates and incentives provided pursuant to the California Solar Initiative.

(2) (A) On an annual basis, beginning in 2003, every electric utility shall make available to the ratemaking authority information on the total rated generating capacity used by eligible customer-generators that are customers of that provider in the

provider's service area and the net surplus electricity purchased by the electric utility pursuant to this section.

(B) An electric service provider operating pursuant to Section 394 shall make available to the ratemaking authority the information required by this paragraph for each eligible customer-generator that is their customer for each service area of an electric corporation, local publicly owned electric utility, or electrical cooperative, in which the eligible customer-generator has net energy metering.

(C) The ratemaking authority shall develop a process for making the information required by this paragraph available to electric utilities, and for using that information to determine when, pursuant to paragraphs (1) and (3), an electric utility is not obligated to provide net energy metering to additional eligible customer-generators in its service area.

(3) An electric utility is not obligated to provide net energy metering to additional eligible customer-generators in its service area when the combined total peak demand of all electricity used by eligible customer-generators served by all the electric utilities in that service area furnishing net energy metering to eligible customer-generators exceeds 2.5 percent of the aggregate customer peak demand of those electric utilities.

(4) By January 1, 2010, the commission, in consultation with the Energy Commission, shall submit a report to the Governor and the Legislature on the costs and benefits of net energy metering, wind energy co-metering, and co-energy metering to participating customers and nonparticipating customers and with options to replace the economic costs and benefits of net energy metering, wind energy co-metering, and co-energy metering with a mechanism that more equitably balances the interests of participating and nonparticipating customers, and that incorporates the findings of the report on economic and environmental costs and benefits of net metering required by subdivision (n).

(d) Every electric utility shall make all necessary forms and contracts for net energy metering and net surplus electricity compensation service available for download from the Internet.

(e) (1) Every electric utility shall ensure that requests for establishment of net energy metering and net surplus electricity compensation are processed in a time period not exceeding that for similarly situated customers requesting new electric service, but not to exceed 30 working days from the date it receives a completed application form for net energy metering service or net surplus electricity compensation, including a signed interconnection agreement from an eligible customer-generator and the electric inspection clearance from the governmental authority having jurisdiction.

(2) Every electric utility shall ensure that requests for an interconnection agreement from an eligible customer-generator are processed in a time period not to exceed 30 working days from the date it receives a completed application form from the eligible customer-generator for an interconnection agreement.

(3) If an electric utility is unable to process a request within the allowable timeframe pursuant to paragraph (1) or (2), it shall notify the eligible customer-generator and the ratemaking authority of the reason for its inability to process the request and the expected completion date.

(f) (1) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric service provider that does not provide distribution service for the direct transactions, the electric utility that provides distribution service for the eligible customer-generator is not obligated to provide net energy metering or net surplus electricity compensation to the customer.

(2) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric service provider, and the customer is an eligible customer-generator, the electric utility that provides distribution service for the direct transactions may recover from the customer's electric service provider the incremental costs of metering and billing service related to net energy metering and net surplus electricity compensation in an amount set by the ratemaking authority.

(g) Except for the time-variant kilowatthour pricing portion of any tariff adopted by the commission pursuant to paragraph (4) of subdivision (a) of Section 2851, each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility, except that eligible customer-generators shall not be assessed standby charges on the electrical generating capacity or the kilowatthour production of an eligible solar or wind electrical generating facility. The charges for all retail rate components for eligible customer-generators shall be based exclusively on the customer-generator's net kilowatthour consumption over a 12-month period, without regard to the eligible customer-generator's choice as to from whom it purchases electricity that is not self-generated. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or any other charge that would increase an eligible customer-generator's costs beyond those of other customers who are not eligible customer-generators in the rate class to which the eligible customer-generator would otherwise be assigned if the customer did not own, lease, rent, or otherwise operate an eligible solar or wind electrical generating facility ~~are~~ *is* contrary to the intent of this section, and shall not form a part of net energy metering contracts or tariffs.

(h) For eligible customer-generators, the net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible residential or small commercial customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric utility, and at each anniversary date thereafter, be billed for electricity used during that 12-month period. The electric utility shall determine if the eligible residential or small commercial customer-generator was a net consumer or a net surplus customer-generator during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric utility exceeds the electricity generated by the eligible residential or small commercial customer-generator during that same period, the eligible residential or small commercial customer-generator is a net electricity consumer and the electric utility shall be owed compensation for the eligible customer-generator's net kilowatthour consumption over that 12-month period. The compensation owed for the eligible

residential or small commercial customer-generator's consumption shall be calculated as follows:

(A) For all eligible customer-generators taking service under contracts or tariffs employing "baseline" and "over baseline" rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned to, or be eligible for, if the customer was not an eligible customer-generator. If those same customer-generators are net generators over a billing period, the net kilowatthours generated shall be valued at the same price per kilowatthour as the electric utility would charge for the baseline quantity of electricity during that billing period, and if the number of kilowatthours generated exceeds the baseline quantity, the excess shall be valued at the same price per kilowatthour as the electric utility would charge for electricity over the baseline quantity during that billing period.

(B) For all eligible customer-generators taking service under contracts or tariffs employing time-of-use rates, any net monthly consumption of electricity shall be calculated according to the terms of the contract or tariff to which the same customer would be assigned, or be eligible for, if the customer was not an eligible customer-generator. When those same customer-generators are net generators during any discrete time-of-use period, the net kilowatthours produced shall be valued at the same price per kilowatthour as the electric utility would charge for retail kilowatthour sales during that same time-of-use period. If the eligible customer-generator's time-of-use electrical meter is unable to measure the flow of electricity in two directions, paragraph (1) of subdivision (c) shall apply.

(C) For all eligible residential and small commercial customer-generators and for each billing period, the net balance of moneys owed to the electric utility for net consumption of electricity or credits owed to the eligible customer-generator for net generation of electricity shall be carried forward as a monetary value until the end of each 12-month period. For all eligible commercial, industrial, and agricultural customer-generators, the net balance of moneys owed shall be paid in accordance with the electric utility's normal billing cycle, except that if the eligible commercial, industrial, or agricultural customer-generator is a net electricity producer over a normal billing cycle, any excess kilowatthours generated during the billing cycle shall be carried over to the following billing period as a monetary value, calculated according to the procedures set forth in this section, and appear as a credit on the eligible commercial, industrial, or agricultural customer-generator's account, until the end of the annual period when paragraph (3) shall apply.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric utility during that same period, the eligible customer-generator is a net surplus customer-generator and the electric utility shall, upon an affirmative election by the eligible customer-generator, either (A) provide net surplus electricity compensation for any net surplus electricity generated during the prior 12-month period, or (B) allow the eligible customer-generator to apply the net surplus electricity as a credit for kilowatthours subsequently supplied by the electric utility to the surplus customer-generator. For an eligible customer-generator that does not affirmatively elect to receive service pursuant to net surplus electricity compensation, the electric utility shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator not affirmatively electing to receive service pursuant to net surplus electricity compensation shall not be owed any compensation for the net surplus electricity unless the electric utility enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours. Every electric utility shall, by January 31, 2010, provide notice to eligible customer-generators that they are eligible to receive net surplus electricity compensation for net surplus electricity, that they must elect to receive net surplus electricity compensation, and that the 12-month period commences when the electric utility receives the eligible customer-generator's election. The commission may, for an electric utility that is an electrical corporation or electrical cooperative, adopt requirements for providing notice and the manner by which eligible customer-generators may elect to receive net surplus electricity compensation.

(4) (A) The ratemaking authority shall, by January 1, 2011, establish a net surplus electricity compensation valuation to compensate the net surplus customer-generator for the value of net surplus electricity generated by the net surplus

customer-generator. The commission shall establish the valuation in a ratemaking proceeding. The ratemaking authority for a local publicly owned electric utility shall establish the valuation in a public proceeding. The net surplus electricity compensation valuation shall be established so as to provide the net surplus customer-generator just and reasonable compensation for the value of net surplus electricity, while leaving other ratepayers unaffected. The ratemaking authority shall determine whether the compensation will include, where appropriate justification exists, either or both of the following components:

(i) The value of the electricity itself.

(ii) The value of the renewable attributes of the electricity.

(B) In establishing the rate pursuant to subparagraph (A), the ratemaking authority shall ensure that the rate does not result in a shifting of costs between solar customer-generators and other bundled service customers.

(5) (A) Upon adoption of the net surplus electricity compensation rate by the ratemaking authority, any renewable energy credit, as defined in Section 399.12, for net surplus electricity purchased by the electric utility shall belong to the electric utility. Any renewable energy credit associated with electricity generated by the eligible customer-generator that is utilized by the eligible customer-generator shall remain the property of the eligible customer-generator.

(B) Upon adoption of the net surplus electricity compensation rate by the ratemaking authority, the net surplus electricity purchased by the electric utility shall count toward the electric utility's renewables portfolio standard annual procurement targets for the purposes of paragraph (1) of subdivision (b) of Section 399.15, or for a local publicly owned electric utility, the renewables portfolio standard annual procurement targets established pursuant to Section 387.

(6) The electric utility shall provide every eligible residential or small commercial customer-generator with net electricity consumption and net surplus electricity generation information with each regular bill. That information shall include the current monetary balance owed the electric utility for net electricity consumed, or the net surplus electricity generated, since the last 12-month period ended. Notwithstanding this subdivision, an

electric utility shall permit that customer to pay monthly for net energy consumed.

(7) If an eligible residential or small commercial customer-generator terminates the customer relationship with the electric utility, the electric utility shall reconcile the eligible customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation, according to the requirements set forth in this subdivision, except that those requirements shall apply only to the months since the most recent 12-month bill.

(8) If an electric service provider or electric utility providing net energy metering to a residential or small commercial customer-generator ceases providing that electric service to that customer during any 12-month period, and the customer-generator enters into a new net energy metering contract or tariff with a new electric service provider or electric utility, the 12-month period, with respect to that new electric service provider or electric utility, shall commence on the date on which the new electric service provider or electric utility first supplies electric service to the customer-generator.

(i) Notwithstanding any other provisions of this section, the following provisions shall apply to an eligible customer-generator with a capacity of more than 10 kilowatts, but not exceeding one megawatt, that receives electric service from a local publicly owned electric utility that has elected to utilize a co-energy metering program unless the local publicly owned electric utility chooses to provide service for eligible customer-generators with a capacity of more than 10 kilowatts in accordance with subdivisions (g) and (h):

(1) The eligible customer-generator shall be required to utilize a meter, or multiple meters, capable of separately measuring electricity flow in both directions. All meters shall provide time-of-use measurements of electricity flow, and the customer shall take service on a time-of-use rate schedule. If the existing meter of the eligible customer-generator is not a time-of-use meter or is not capable of measuring total flow of energy in both directions, the eligible customer-generator shall be responsible for all expenses involved in purchasing and installing a meter that is both time-of-use and able to measure total electricity flow in both directions. This subdivision shall not restrict the ability of an

eligible customer-generator to utilize any economic incentives provided by a government agency or an electric utility to reduce its costs for purchasing and installing a time-of-use meter.

(2) The consumption of electricity from the local publicly owned electric utility shall result in a cost to the eligible customer-generator to be priced in accordance with the standard rate charged to the eligible customer-generator in accordance with the rate structure to which the customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility. The generation of electricity provided to the local publicly owned electric utility shall result in a credit to the eligible customer-generator and shall be priced in accordance with the generation component, established under the applicable structure to which the customer would be assigned if the customer did not use an eligible solar or wind electrical generating facility.

(3) All costs and credits shall be shown on the eligible customer-generator's bill for each billing period. In any months in which the eligible customer-generator has been a net consumer of electricity calculated on the basis of value determined pursuant to paragraph (2), the customer-generator shall owe to the local publicly owned electric utility the balance of electricity costs and credits during that billing period. In any billing period in which the eligible customer-generator has been a net producer of electricity calculated on the basis of value determined pursuant to paragraph (2), the local publicly owned electric utility shall owe to the eligible customer-generator the balance of electricity costs and credits during that billing period. Any net credit to the eligible customer-generator of electricity costs may be carried forward to subsequent billing periods, provided that a local publicly owned electric utility may choose to carry the credit over as a kilowatthour credit consistent with the provisions of any applicable contract or tariff, including any differences attributable to the time of generation of the electricity. At the end of each 12-month period, the local publicly owned electric utility may reduce any net credit due to the eligible customer-generator to zero.

(j) A solar or wind turbine electrical generating system, or a hybrid system of both, used by an eligible customer-generator shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories, including

Underwriters Laboratories and, where applicable, rules of the commission regarding safety and reliability. A customer-generator whose solar or wind turbine electrical generating system, or a hybrid system of both, meets those standards and rules shall not be required to install additional controls, perform or pay for additional tests, or purchase additional liability insurance.

(k) If the commission determines that there are cost or revenue obligations for an electric corporation, as defined in Section 218, that may not be recovered from customer-generators acting pursuant to this section, those obligations shall remain within the customer class from which any shortfall occurred and may not be shifted to any other customer class. Net energy metering and co-energy metering customers shall not be exempt from the public goods charges imposed pursuant to Article 7 (commencing with Section 381), Article 8 (commencing with Section 385), or Article 15 (commencing with Section 399) of Chapter 2.3 of Part 1. In its report to the Legislature, the commission shall examine different methods to ensure that the public goods charges remain nonbypassable.

(*l*) A net energy metering, co-energy metering, or wind energy co-metering customer shall reimburse the Department of Water Resources, *or its successor, the Department of Energy* for all charges that would otherwise be imposed on the customer by the commission to recover bond-related costs pursuant to an agreement between the commission and the Department of Water Resources, *or its successor, the Department of Energy,* pursuant to Section 80110 of the Water Code, as well as the costs of the department equal to the share of the department's estimated net unavoidable power purchase contract costs attributable to the customer. The commission shall incorporate the determination into an existing proceeding before the commission, and shall ensure that the charges are nonbypassable. Until the commission has made a determination regarding the nonbypassable charges, net energy metering, co-energy metering, and wind energy co-metering shall continue under the same rules, procedures, terms, and conditions as were applicable on December 31, 2002.

(m) In implementing the requirements of subdivisions (k) and (*l*), an eligible customer-generator shall not be required to replace its existing meter except as set forth in paragraph (1) of subdivision (c), nor shall the electric utility require additional measurement of usage beyond that which is necessary for customers in the same rate class as the eligible customer-generator.

(n) It is the intent of the Legislature that the Treasurer incorporate net energy metering, including net surplus electricity compensation, co-energy metering, and wind energy co-metering projects undertaken pursuant to this section as sustainable building methods or distributive energy technologies for purposes of evaluating low-income housing projects.

SEC. 378. Section 9502 of the Public Utilities Code is amended to read:

9502. On or before December 1, 1994, and on a biennial basis thereafter, each publicly owned electric and gas utility shall submit a report to the ~~State Energy Resources Conservation and Development Commission~~ *Department of Energy* describing the status of their low-income weatherization programs required by Sections 9500 and 9501. Thereafter, as part of the biennial conservation report prepared pursuant to Section 25401.1 of the Public Resources Code, the commission shall report to the Legislature summarizing publicly owned utility efforts to comply with Sections 9500 and 9501.

SEC. 379. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

All matter omitted in this version of the bill appears in the bill as amended in the Assembly, May 19, 2009. (JR11)

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