AMENDED IN ASSEMBLY APRIL 13, 2010

california legislature—2009–10 regular session

ASSEMBLY BILL No. 2561

Introduced by Assembly Members Villines and Fuentes

February 19, 2010

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, 66645, and 66646 of, to amend and renumber Section 15814.25 of, to amend, repeal, and add Sections 12730, 16367.5, and 16367.6 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 44270.3, 44271, 44272, 44272.5, 44273, and 44274 of the Health and Safety Code,* to amend Sections 3808, 3810, 3822, 3822.1, 3822.2, 4799.16, 6815.2, 14584, 25000.1, 25005.5, 25104, 25106, 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, 25433.5, 25434, 25434.5, 25441, 25442, 25442.5, 25442.7, 25443, 25443.5, 25445, 25449, 25449.1, 25449.2, 25449.3, 25449.4, 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, 25502, 25502.3, 25504, 25504.5, 25505, 25506, 25506.5, 25507, 25508, 25509, 25509.5, 25510, 25511, 25512, 25513, 25513.3, 25514, 25514.3, 25514.5, 25516, 25516.1, 25516.5, 25516.6, 25517, 25518, 25519, 25520, 25520.5, 25521, 25522, 25523, 25524.1, 25524.2, 25524.5, 25525, 25526, 25527, 25528, 25529, 25530, 25531, 25532, 25534, 25534.1, 25534.2, 25537, 25538, 25539, 25540, 25540.1, 25540.2, 25540.3, 25540.4, 25540.5, 25540.6, 25541, 25541.5, 25542, 25543, 25601, 25602, 25603, 25605, 25605.5, 25608, 25609, 25609.5, 25610, 25616, 25617, 25618, 25620, 25620.1, 25620.2, 25620.3, 25620.4, 25620.5, 25620.6, 25620.7, 25620.8, 25620.11, 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, 25742, 25743, 25744, 25744.5, 25747, 25748, 25751, 25770, 25771, 25772, 25773, 25782, 25783, 25784, 25802, 25803, 25806, 25900, 25901, 25902, 25910, 25911, 25912, 25942, 25943, 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 amend and repeal Section 25449 of, to add Sections 3806.5, 25104.1, 25104.2, 25205.5, 25207.5, 25219, 25544, and 25545 to, 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 add and repeal Section 25208 of,* to repeal Sections 3805.5, 25217, 25217.5, 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 25200, 25201, 25202, 25203, 25204, and 25206 of, the Public Resources Code, to amend Sections 348, 352, 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, 1822, 2774.6, 2827, and 9502 of, to add Sections 322, 345.1, 345.2, and 411 to, to repeal Sections 346, 350, 360, and 365 of, to repeal Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of, and to repeal Division 1.5 (commencing with Section 3300) of, the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2561, 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 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.

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~~ *transfer certain authority and duties* of the *former* Electricity Oversight

Board ~~and add to the functions of the office~~ *to the Secretary of Energy and the Department of Energy*.

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 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.

(2) 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.

(3) 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.

(4) 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.

(5) The California Consumer Power and Conservation Financing Authority Act establishes the California Consumer Power and Conservation Financing Authority and authorizes the authority to take various actions related to the generation and transmission of electricity and renewable energy, energy efficiency, and conservation programs.

This bill would repeal that act.

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

(7) 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 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 California Energy Board or a requirement of the California Energy Board that development rights be acquired, a reference to 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 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.

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

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 Department of Energy with respect to technical criteria that are to be applied to projects receiving loans from the corporation pursuant to this chapter. The corporation may contract with the 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 Department of Energy and the corporate president.

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

9100. The 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 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 Public Employment Relations Board.

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

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

(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 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 person who is delegated signatory authority for the Community Service Block Grant by the Governor as reflected in the California Community Services Block Grant State Plan.

(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 Energy established pursuant to Section 25200 of the Public Resources Code.

(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 a Deputy Secretary for Energy Matters who may serve as Secretary of the Natural Resources designee on the California Energy Board and an Assistant Secretary for Coastal Matters who may serve as Secretary 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 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, 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 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) This section 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 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 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 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:

15814.24.1. 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 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 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 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.

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, weatherization, and lead hazard reduction programs.

(h) By reorganizing the state's low-income energy, weatherization, and lead hazard reduction 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, weatherization, and lead hazard reduction programs through December 31, 2012, to ensure continuous allocation and distribution of funds from the federal American Recovery and Reinvestment Act of 2009. On and after January 1, 2013, the federally funded low-income energy, weatherization, and lead hazard reduction 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.

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

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

16366.35. 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 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.

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

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

16366.6. (a) The funds shall be used to serve 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. Notwithstanding any other provision of law:

(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 and shall incorporate all of these elements into each agreement or contract.

(d) 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.

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

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) 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 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.

(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.

(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.

(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.

(2) The department shall allocate 5 percent of the Energy Crisis Intervention Program allocation to the local service providers for outreach and related services.

(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.

(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.

(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.

(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.

(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.

(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.

(*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~~ *At least 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.

(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 Community Services and Development shall receive and administer all state and federal funds that are allocated for programs to provide energy assistance, weatherization, and lead hazard reduction to qualified low-income individuals only, except for those funds that are allocated to, and distributed by, the California Energy Extension Service.

(b)The Department of Community Services and Development 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 Community Services and Development 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 Community Services and Development 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.

(c) 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. 40. Section 16367.6 is added to the Government Code, to read:

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

(b) The Department of 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 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.

(c) The Department of 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.

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

SEC. 41. Section 16367.61 of the Government Code is repealed.

SEC. 42. Section 16367.65 of the Government Code is repealed.

SEC. 43. Section 16367.7 of the Government Code is repealed.

SEC. 44. Section 16367.8 of the Government Code is repealed.

SEC. 45. Section 66645 of the Government Code is amended to read:

66645. (a) In addition to the provisions of Sections 25302, 25500, 25519, 25523, and 25526 of the Public Resources Code, the provisions of this section shall apply to the commission and the 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 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 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.

(d) Whenever the 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 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 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 an application for certification and, prior to commencement of the hearings conducted pursuant to Section 25221 of the Public Resources Code, shall forward to the 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 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 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) 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. 46. 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 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 Section 25523 of the Public Resources Code, by the California Energy Board within the Department of Energy to have greater relative merit than available alternative sites and related facilities.

SEC. 46.1. Section 44270.3 of the Health and Safety Code is amended to read:

44270.3. For the purposes of this chapter, the following terms have the following meanings:

(a) ~~"Commission" means the State Energy Resources Conservation and Development Commission~~ *"Department" means the Department of Energy*.

(b) "Full fuel-cycle assessment" or "life-cycle assessment" means evaluating and comparing the full environmental and health impacts of each step in the life cycle of a fuel, including, but not limited to, all of the following:

(1) Feedstock production, extraction, cultivation, transport, and storage, and the transportation and use of water and changes in land use and land cover therein.

(2) Fuel production, manufacture, distribution, marketing, transport, and storage, and the transportation and use of water therein.

(3) Vehicle operation, including refueling, combustion, conversion, permeation, and evaporation.

(c) "Vehicle technology" means any vehicle, boat, off-road equipment, or locomotive, or component thereof, including its engine, propulsion system, transmission, or construction materials.

SEC. 46.2. Section 44271 of the Health and Safety Code is amended to read:

44271. (a) This chapter creates the Alternative and Renewable Fuel and Vehicle Technology Program, pursuant to Section 44272, to be administered by the ~~commission~~ *department*, and the Air Quality Improvement Program, pursuant to Section 44274, to be administered by the state board. The ~~commission~~ *department, by action of the California Energy Board*, and the state board shall do all of the following in fulfilling their responsibilities pursuant to their respective programs:

(1) Establish sustainability goals to ensure that alternative and renewable fuel and vehicle deployment projects, on a full fuel-cycle

assessment basis, will not adversely impact natural resources, especially state and federal lands.

(2) Establish a competitive process for the allocation of funds for projects funded pursuant to this chapter.

(3) Identify additional federal and private funding opportunities to augment or complement the programs created pursuant to this chapter.

(4) Ensure that the results of the reductions in emissions or benefits can be measured and quantified.

(b) The state board shall develop and adopt guidelines for both the Alternative and Renewable Fuel and Vehicle Technology Program and the Air Quality Improvement Program to ensure that programs meet both of the following requirements:

(1) Activities undertaken pursuant to the programs complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.

(2) Activities undertaken pursuant to the programs maintain or improve upon emission reductions and air quality benefits in the State Implementation Plan for Ozone, California Phase 2 Reformulated Gasoline standards, and diesel fuel regulations.

(c) For the purposes of both of the programs created by this chapter, eligible projects do not include those required to be undertaken pursuant to state or federal law, district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. For the purposes of the Alternative and Renewable Fuel and Vehicle Technology Program, the state board shall advise the ~~commission~~ *department* to ensure the requirements of this subdivision are met.

SEC. 46.3. Section 44272 of the Health and Safety Code is amended to read:

44272. (a) The Alternative and Renewable Fuel and Vehicle Technology Program is hereby created. The program shall be administered by the ~~commission~~ *department*. The ~~commission~~ *department, by action of the California Energy Board,* shall implement the program by regulation pursuant to the requirements of Chapter 3.5 (commencing with Section 11340) of *Part 1 of* Division 3 of Title 2 of the Government Code. The program shall provide, upon appropriation by the Legislature, competitive grants, revolving loans, loan guarantees, loans, or other appropriate funding measures, to public agencies, vehicle and technology entities, businesses and projects, public-private partnerships, workforce training partnerships and collaboratives, fleet owners, consumers, recreational boaters, and academic institutions to develop and deploy innovative technologies that transform California's fuel and vehicle types to help attain the state's climate change policies. The emphasis of this program shall be to develop and deploy technology and alternative and renewable fuels in the marketplace, without adopting any one preferred fuel or technology.

(b) A project funded by the ~~commission~~ *California Energy Board* shall be approved at a noticed public hearing of the ~~commission~~ *California Energy Board* and shall be consistent with the priorities established by the investment plan adopted pursuant to Section 44272.5.

(c) The ~~commission~~ *department, by action of the California Energy Board,* shall provide preferences to those projects that maximize the goals of the Alternative and Renewable Fuel and Vehicle Technology Program, based on the following criteria, as applicable:

(1) The project's ability to provide a measurable transition from the nearly exclusive use of petroleum fuels to a diverse portfolio of viable alternative fuels that meet petroleum reduction and alternative fuel use goals.

(2) The project's consistency with existing and future state climate change policy and low-carbon fuel standards.

(3) The project's ability to reduce criteria air pollutants and air toxics and reduce or avoid multimedia environmental impacts.

(4) The project's ability to decrease, on a life-cycle basis, the discharge of water pollutants or any other substances known to damage human health or the environment, in comparison to the production and use of California Phase 2 Reformulated Gasoline or diesel fuel produced and sold pursuant to California diesel fuel regulations set forth in Article 2 (commencing with Section ~~2280)~~ *2281)* of Chapter 5 of Division 3 of Title 13 of the California Code of Regulations.

(5) The project does not adversely impact the sustainability of the state's natural resources, especially state and federal lands.

(6) The project provides nonstate matching funds.

(7) The project provides economic benefits for California by promoting California-based technology firms, jobs, and businesses.

(8) The project uses existing or proposed fueling infrastructure to maximize the outcome of the project.

(9) The project's ability to reduce on a life-cycle assessment greenhouse gas emissions by at least 10 percent, and higher percentages in the future, from current reformulated gasoline and diesel fuel standards established by the state board.

(10) The project's use of alternative fuel blends of at least 20 percent, and higher blend ratios in the future, with a preference for projects with higher blends.

(11) The project drives new technology advancement for vehicles, vessels, engines, and other equipment, and promotes the deployment of that technology in the marketplace.

(d) Only the following shall be eligible for funding:

(1) Alternative and renewable fuel projects to develop and improve alternative and renewable low-carbon fuels, including electricity, ethanol, dimethyl ether, renewable diesel, natural gas, hydrogen, and biomethane, among others, and their feedstocks that have high potential for long-term or short-term commercialization, including projects that lead to sustainable feedstocks.

(2) Demonstration and deployment projects that optimize alternative and renewable fuels for existing and developing engine technologies.

(3) Projects to produce alternative and renewable low-carbon fuels in California.

(4) Projects to decrease the overall impact of an alternative and renewable fuel's life cycle carbon footprint and increase sustainability.

(5) Alternative and renewable fuel infrastructure, fueling stations, and equipment. The preference in paragraph (10) of subdivision (c) shall not apply to renewable diesel or biodiesel infrastructure, fueling stations, and equipment used solely for renewable diesel or biodiesel fuel.

(6) Projects to develop and improve light-, medium-, and heavy-duty vehicle technologies that provide for better fuel efficiency and lower greenhouse gas emissions, alternative fuel usage and storage, or emission reductions, including propulsion systems, advanced internal combustion engines with a 40 percent

or better efficiency level over the current market standard, light-weight materials, energy storage, control systems and system integration, physical measurement and metering systems and software, development of design standards and testing and certification protocols, battery recycling and reuse, engine and fuel optimization electronic and electrified components, hybrid technology, plug-in hybrid technology, battery electric vehicle technology, fuel cell technology, and conversions of hybrid technology to plug-in technology through the installation of safety certified supplemental battery modules.

(7) Programs and projects that accelerate the commercialization of vehicles and alternative and renewable fuels including buy-down programs through near-market and market-path deployments, advanced technology warranty or replacement insurance, development of market niches, supply-chain development, and research related to the pedestrian safety impacts of vehicle technologies and alternative and renewable fuels.

(8) Programs and projects to retrofit medium- and heavy-duty on-road and nonroad vehicle fleets with technologies that create higher fuel efficiencies, including alternative and renewable fuel vehicles and technologies, idle management technology, and aerodynamic retrofits that decrease fuel consumption.

(9) Infrastructure projects that promote alternative and renewable fuel infrastructure development connected with existing fleets, public transit, and existing transportation corridors, including physical measurement or metering equipment and truck stop electrification.

(10) Workforce training programs related to alternative and renewable fuel feedstock production and extraction, renewable fuel production, distribution, transport, and storage, high-performance and low-emission vehicle technology and high tower electronics, automotive computer systems, mass transit fleet conversion, servicing, and maintenance, and other sectors or occupations related to the purposes of this chapter.

(11) Block grants administered by not-for-profit technology entities for multiple projects, education and program promotion within California, and development of alternative and renewable fuel and vehicle technology centers.

(12) Life-cycle and multimedia analyses, sustainability and environmental impact evaluations, and market, financial, and

technology assessments performed by a state agency to determine the impacts of increasing the use of low-carbon transportation fuels and technologies, and to assist in the preparation of the investment plan and program implementation.

(e) The ~~commission~~ *California Energy Board* may make a single source or sole source award pursuant to this section for applied research. The same requirements set forth in Section 25620.5 of the Public Resources Code shall apply to awards made on a single source basis or a sole source basis. This subdivision does not authorize the ~~commission~~ *California Energy Board* to make a single source or sole source award for a project or activity other than for applied research. ~~The commission may pursuant to this subdivision make a single source or sole source award for the applied research to be conducted by the Quiet Motorized Road Vehicle and Safe Mobility Committee created pursuant to Section 25227 of the Public Resources Code, if Senate Bill 1174 of the 2007–08 Regular Session, which would add that section, is enacted.~~

(f) Until January 1, 2012, the ~~commission~~ *California Energy Board* may contract with the Treasurer to expend funds through programs implemented by the Treasurer, if that expenditure is consistent with all of the requirements of this chapter.

SEC. 46.4. Section 44272.5 of the Health and Safety Code is amended to read:

44272.5. (a) The ~~commission~~ *department* shall develop and *the California Energy Board shall* adopt an investment plan to determine priorities and opportunities for the Alternative and Renewable Fuel and Vehicle Technology Program created pursuant to this chapter. The investment plan shall establish priorities for investment of funds and technologies to achieve the goals of this chapter and describe how funding will complement existing public and private investments, including existing state programs that further the goals of this chapter. The ~~commission~~ *department* shall create and consult with an advisory body as it develops the investment plan. The advisory body is subject to 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). The ~~commission~~ *California Energy Board* shall, at a minimum, hold one public hearing on the advisory body's recommendations prior to approving the investment plan.

(b) Membership of the advisory body created pursuant to subdivision (a) shall include, but is not limited to, representatives of fuel and vehicle technology entities, labor organizations, environmental organizations, community-based justice and public health organizations, recreational boaters, consumer advocates, academic institutions, workforce training groups, and private industry. The advisory body shall also include representatives from the *Natural* Resources Agency, the Business, Transportation and Housing Agency, the Labor and Workforce Development Agency, and the California Environmental Protection Agency.

(c) The ~~commission~~ *California Energy Board*, shall hold at least three public workshops in different regions of the state and one public hearing prior to approving the investment plan. The ~~commission~~ *department* shall annually update *the plan* and *the California Energy Board shall* approve the plan. The ~~commission~~ *California Energy Board* shall reconvene and consult with the advisory body created pursuant to subdivision (a) prior to *the department* annually updating *the plan* and *the California Energy Board* approving the plan.

SEC. 46.5. Section 44273 of the Health and Safety Code is amended to read:

44273. (a) The Alternative and Renewable Fuel and Vehicle Technology Fund is hereby created in the State Treasury, to be administered by the ~~commission~~ *department*. The moneys in the fund, upon appropriation by the Legislature, shall be expended by the ~~commission~~ *department, by action of the California Energy Board*, to implement the Alternative and Renewable Fuel and Vehicle Technology Program in accordance with this chapter.

(b) Notwithstanding any other provision of law, the sum of ten million dollars ($10,000,000) shall be transferred annually from the Public Interest Research, Development, and Demonstration Fund created by Section 384 of the Public Utilities Code to the Alternative and Renewable Fuel and Vehicle Technology Fund. Prior to the award of any funds from this source, the ~~commission~~ *California Energy Board* shall make a determination that the proposed project will provide benefits to electric or natural gas ratepayers based upon the ~~commission's~~ *California Energy Board's* adopted criteria.

(c) Beginning with the integrated energy policy report adopted *by the California Energy Board* in 2011, and in the subsequent reports adopted thereafter, pursuant to Section 25302 of the Public Resources Code, the ~~commission~~ *department* shall include *in the report* an evaluation of research, development, and deployment efforts funded by this chapter. The evaluation shall include all of the following:

(1) A list of projects funded by the Alternative and Renewable Fuel and Vehicle Technology Fund.

(2) The expected benefits of the projects in terms of air quality, petroleum use reduction, greenhouse gas emissions reduction, technology advancement, and progress towards achieving these benefits.

(3) The overall contribution of the funded projects toward promoting a transition to a diverse portfolio of clean, alternative transportation fuels and reduced petroleum dependency in California.

(4) Key obstacles and challenges to meeting these goals identified through funded projects.

(5) Recommendations for future actions.

SEC. 46.7. Section 44274 of the Health and Safety Code is amended to read:

44274. (a) The Air Quality Improvement Program is hereby created. The program shall be administered by the state board, in consultation with the districts. The state board shall develop guidelines to implement the program. Prior to the adoption of the guidelines, the state board shall hold at least one public hearing. In addition, the state board shall hold at least three public workshops with at least one workshop in northern California, one in the central valley, and one in southern California. The purpose of the program shall be to fund, upon appropriation by the Legislature, air quality improvement projects relating to fuel and vehicle technologies. The primary purpose of the program shall be to fund projects to reduce criteria air pollutants, improve air quality, and provide funding for research to determine and improve the air quality impacts of alternative transportation fuels and vehicles, vessels, and equipment technologies.

(b) Projects proposed for funding pursuant to subdivision (a) shall be evaluated based on their proposed or potential reduction of criteria or toxic air pollutants, cost-effectiveness, contribution to regional air quality improvement, and ability to promote the use of clean alternative fuels and vehicle technologies as determined by the state board, in coordination with the ~~commission~~ *department*.

(c) The program shall be limited to competitive grants, revolving loans, loan guarantees, loans, and other appropriate funding measures that further the purposes of the program. Projects to be funded shall include only the following:

(1) On- and off-road equipment projects that are cost effective.

(2) Projects that provide mitigation for off-road gasoline exhaust and evaporative emissions.

(3) Projects that provide research to determine the air quality impacts of alternative fuels and projects that study the life-cycle impacts of alternative fuels and conventional fuels, the emissions of biofuel and advanced reformulated gasoline blends, and air pollution improvements and control technologies for use with alternative fuels and vehicles.

(4) Projects that augment the University of California's agricultural experiment station and cooperative extension programs for research to increase sustainable biofuels production and improve the collection of biomass feedstock.

(5) Incentives for small off-road equipment replacement to encourage consumers to replace internal combustion engine lawn and garden equipment.

(6) Incentives for medium- and heavy-duty vehicles and equipment mitigation, including all of the following:

(A) Lower emission schoolbus programs.

(B) Electric, hybrid, and plug-in hybrid on- and off-road medium- and heavy-duty equipment.

(C) Regional air quality improvement and attainment programs implemented by the state or districts in the most impacted regions of the state.

(7) Workforce training initiatives related to advanced energy technology designed to reduce air pollution, including state-of-the-art equipment and goods, and new processes and systems. Workforce training initiatives funded shall be broad-based partnerships that leverage other public and private job training programs and resources. These partnerships may include, though are not limited to, employers, labor unions, labor-management partnerships, community organizations, workforce investment boards, postsecondary education providers including community colleges, and economic development agencies.

(8) Incentives to identify and reduce emissions from high emitting light-duty vehicles.

(d) (1) Beginning January 1, 2011, the state board shall submit to the Legislature a biennial report to evaluate the implementation of the Air Quality Improvement Program established pursuant to this chapter.

(2) The report shall include all of the following:

(A) A list of projects funded by the Air Quality Improvement Account.

(B) The expected benefits of the projects in promoting clean, alternative fuels and vehicle technologies.

(C) Improvement in air quality and public health, greenhouse gas emissions reductions, and the progress made toward achieving these benefits.

(D) The impact of the projects in making progress toward attainment of state and federal air quality standards.

(E) Recommendations for future actions.

(3) The state board may include the information required to be reported pursuant to paragraph (1) in an existing report to the Legislature as the state board deems appropriate.

SEC. 47. Section 3805.5 of the Public Resources Code is repealed.

SEC. 48. Section 3806.5 is added to the Public Resources Code, to read:

3806.5. "Department" means the Department of Energy.

SEC. 49. 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 of Conservation shall periodically review, and revise as necessary, its designation of geothermal resource areas and shall transmit any changes to the department.

SEC. 50. 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 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 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 department to determine and establish the terms of repayment and reimbursement of the award.

(3) The 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 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 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 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 department to determine and establish the terms of payment of the royalty rate.

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

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

(c) (1) The 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 department may require advance notice of any transaction involving intellectual property rights.

SEC. 51. 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 department as grants or loans to local jurisdictions or private entities without regard to fiscal years. These revenues shall be held by the 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 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 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 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 department may require an award repayment or program reimbursement agreement of any recipient of a grant or loan made pursuant to this section.

SEC. 52. 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 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 department shall execute the funding agreements. The 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. 53. Section 3822.2 of the Public Resources Code is amended to read:

3822.2. (a) Notwithstanding any other provision of law, the department may expend funds, from that portion of the Geothermal Resources Development Account used by the 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 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. 54. Section 4799.16 of the Public Resources Code is amended to read:

4799.16. The department shall coordinate its activities and cooperate with the 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 ensure that the activities of the department and 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. 55. 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 that shall be allocated to state agencies and to other public agencies, if the California Energy Board, after a public hearing, finds, in its judgment, that 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 oil, gas, and other hydrocarbons taken in kind for finished products required for use by state and other public agencies. 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 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 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 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.

(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 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. 56. 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 Department of Energy for the purpose of demonstrating equipment for enhancing recycling opportunities.

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 department shall include a value for any costs and benefits to the environment, including air quality. The department shall ensure that any values it develops pursuant to this section are consistent with values developed by the Public Utilities Commission pursuant to Section 701.1 of the Public Utilities Code. However, if the 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 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 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 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 public adviser employed by the department pursuant to Section 25217.1.

SEC. 63. The heading of Chapter 3 (commencing with Section 25200) of Division 15 of the Public Resources Code is amended to read:

Chapter 3. Department of Energy

SEC. 64. Section 25200 of the Public Resources Code is repealed.

SEC. 65. 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 adviser 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 board 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, 2011, 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. 66. Section 25201 of the Public Resources Code is repealed.

SEC. 67. 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. 68. Section 25202 of the Public Resources Code is repealed.

SEC. 69. 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. 70. Section 25203 of the Public Resources Code is repealed.

SEC. 71. 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 board.

(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) 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 public members of the board shall be for four years. 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) Members of the predecessor State Energy Resources Conservation and Development Commission having the qualification specified in paragraph (2) of subdivision (b) shall continue to serve as public members of the board for the remainder of the terms they were appointed to serve on the predecessor commission.

(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. 72. Section 25204 of the Public Resources Code is repealed.

SEC. 73. 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. 74. Section 25205 of the Public Resources Code is amended to read:

25205. (a) A person shall not be a member of the board who, during the two years prior to appointment on the 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 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 board shall not hold any other elected or appointed public office or position.

(c) The members of the board and all employees of the 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 department shall not participate personally and substantially as a member of the board or employee of the 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 department or within two years prior to his or her appointment as a member of the 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 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 board or department is a party or has a direct and substantial interest.

(f) This section shall not apply if the Attorney General finds that the interest of the member of the board or employee of the 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 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. 75. 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. 76. Section 25206 of the Public Resources Code is repealed.

SEC. 77. 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. 78. Section 25207 of the Public Resources Code is amended to read:

25207. The secretary and the public members of the 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 board shall receive the necessary traveling and other expenses incurred in the performance of his or her official duties. When necessary, the members of the board and the employees of the department may travel within or without the state.

SEC. 79. 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. 79.5. Section 25208 is added to the Public Resources Code, to read:

25208. (a) 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, 2012, a report 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 report shall include, but is not limited to, all of the following:*

(1) An evaluation and recommendation on whether process efficiencies or cost-efficiencies could be achieved if transmission siting was transferred to the Department of Energy.

(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 if the report recommends transferring the transmission siting authority to the Department of Energy.

(b) (1) A report to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2016.

SEC. 80. Section 25209 of the Public Resources Code is amended to read:

25209. Each member of the 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 board.

SEC. 81. Section 25210 of the Public Resources Code is amended to read:

25210. The 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. 82. Section 25211 of the Public Resources Code is amended to read:

25211. The board may appoint a committee of not less than two members of the board to carry on investigations, inquiries, or hearings that the board has power to undertake or to hold. At least one member of the 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 board member. Every order made by the committee pursuant to the inquiry, investigation, or hearing, when approved or confirmed by the board and ordered filed in its office, shall be the order of the board.

SEC. 83. Section 25212 of the Public Resources Code is amended to read:

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

SEC. 84. Section 25213 of the Public Resources Code is amended to read:

25213. The 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 department and the board shall make available to any person upon request copies of proposed regulations, together with summaries of reasons supporting their adoption.

SEC. 85. Section 25214 of the Public Resources Code is amended to read:

25214. The department and the board shall maintain their headquarters in the County of Sacramento. The board shall hold meetings at times and places as shall be determined by it. All meetings and hearings of the 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.

SEC. 86. Section 25215 of the Public Resources Code is amended to read:

25215. A member of the 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. 87. Section 25216 of the Public Resources Code is amended to read:

25216. In addition to other duties specified in this division, the 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 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. 88. Section 25216.3 of the Public Resources Code is amended to read:

25216.3. (a) The 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 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. 89. Section 25216.5 of the Public Resources Code is amended to read:

25216.5. The 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 department determines is necessary to carry out its objectives under this division. The department may charge and collect a reasonable fee for retrieving and disseminating any information to cover the cost of that service. Any funds received by the department pursuant to this subdivision shall be deposited in the account and are continuously appropriated for expenditure, by the department, for purposes of retrieving and disseminating any such information pursuant to this section.

SEC. 90. Section 25217 of the Public Resources Code is repealed.

SEC. 91. Section 25217.1 of the Public Resources Code is amended to read:

25217.1. The board shall nominate and the Governor shall appoint for a term of three years a public adviser to the 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 board. The adviser may be removed from office only upon the joint concurrence of four board members and the Governor.

SEC. 92. Section 25217.5 of the Public Resources Code is repealed.

SEC. 93. Section 25218 of the Public Resources Code is amended to read:

25218. In addition to other powers specified in this division, the 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 department.

SEC. 94. Section 25218.5 of the Public Resources Code is amended to read:

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

SEC. 95. 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. 96. 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 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, or departments or agencies.

(b) The 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 those applicants in any of those proceedings, and, by its request, receive copies of any of the subsequently filed applications and pleadings that it shall deem necessary.

SEC. 97. Section 25221 of the Public Resources Code is amended to read:

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

SEC. 98. Section 25222 of the Public Resources Code is amended to read:

25222. The adviser shall ensure 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 board meetings and public hearings is disseminated to all interested groups and to the public at large. The adviser shall also advise those groups and the public as to effective ways of participating in the board's proceedings. The adviser shall recommend to the board additional measures to ensure open consideration and public participation in energy planning, site and facility certification, energy conservation, and emergency allocation proceedings.

SEC. 99. Section 25223 of the Public Resources Code is amended to read:

25223. (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.

(b) The department and the board 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. 100. Section 25224 of the Public Resources Code is amended to read:

25224. The 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. 101. 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 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 department, the 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) 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:

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

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

SEC. 102. 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 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 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. 103. 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.~~

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

(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 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~~

25227.2. The following matters are subject to California's exclusive jurisdiction:

~~(1)~~

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

~~(2)~~

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

~~(3)~~

(c) 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)~~

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

~~(5)~~

(e) Open meeting standards and meeting notice requirements.

~~(6)~~

(f) Appointment of advisory representatives representing state interests.

~~(7)~~

(g) Public access to corporate records.

~~(8)~~

(h) 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) 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.

(b) 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.

~~(a)~~

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

~~(b)~~

(d) Sue and be sued.

~~(c)~~

(e) Contract with state, local, or federal agencies for services or work required by the office *under this chapter*.

~~(d)~~

(f) 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)~~

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

~~(f)~~

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

~~(g)~~

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

~~(h)~~

(j) Administer oaths.

~~(i)~~

(k) 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)~~

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

~~(k)~~

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

~~(*l*)~~

(n) 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, and 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)~~

(o) 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~~

25228.2. (a) Any remaining 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~~ *Secretary of Energy or the Department of Energy* unless the context otherwise requires.

(b) All officers and employees of the Electricity Oversight Board who, on January 1, 2011, 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 Energy Market Oversight, including entering into contracts~~ *responsibilities of this chapter*, subject to policies of the department. Notwithstanding Sections 11042 and 11043 of the Government Code, the secretary shall appoint an attorney who shall advise and represent the office 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 office and who shall perform generally all the duties of attorney with respect to the office.~~ *this chapter and who shall perform generally all the duties of an attorney with respect to the purposes of this chapter.*

SEC. 104. Section 25301 of the Public Resources Code is amended to read:

25301. (a) At least every two years, the department shall conduct assessments and forecasts of all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices. The 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 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 Division of Ratepayer Advocates, the State Air Resources Board, the Department of Water Resources, the State Department of Transportation, and the Department of Motor Vehicles.

(b) In developing the assessments and forecasts prepared pursuant to subdivision (a), the 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. 105. Section 25302 of the Public Resources Code is amended to read:

25302. (a) Beginning November 1, 2003, and every two years thereafter, the 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 department 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 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 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 department shall consult with the following entities: the Public Utilities Commission, the Division of Ratepayer Advocates, the State Air Resources Board, the Independent System Operator, the Department of Water

Resources, 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 ensure 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 department.

(f) The department shall provide the report to the Public Utilities Commission, the Division of Ratepayer Advocates, the State Air Resources Board, the Independent System Operator, the Department of Water Resources, 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 department shall make the report accessible to state, local, and federal entities and to the general public.

SEC. 106. Section 25303 of the Public Resources Code is amended to read:

25303. (a) The 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 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 department may work with other public entities and public agencies, including, but not limited to, 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 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 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 department shall assess the potential state and local costs and impacts associated with accumulating waste at California's nuclear powerplants. The department shall further assess other key policy and planning issues that will affect the future role of nuclear powerplants in the state.

SEC. 107. Section 25304 of the Public Resources Code is amended to read:

25304. The 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. 108. Section 25305 of the Public Resources Code is amended to read:

25305. The 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 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. 109. Section 25305.5 of the Public Resources Code is amended to read:

25305.5. The 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. 110. Section 25306 of the Public Resources Code is amended to read:

25306. The 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 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 department's proposals and recommendations in the docket for the integrated energy policy report.

SEC. 111. 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 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 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 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. 112. Section 25320 of the Public Resources Code is amended to read:

25320. (a) The 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 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 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 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 department shall weigh the burden of compliance upon industry participants and energy

consumers against the benefit of participant-provided data for the public interest.

(4) To the extent it satisfies the information needs of the department, rely on data, to the maximum extent practicable, that is reported to other government agencies or is otherwise available to the 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 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 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 department shall collect data for petroleum fuel pursuant to Chapter 4.5 (commencing with Section 25350). The department may also collect information about consumers' petroleum fuel use from consumers' participation in surveys and other research techniques.

SEC. 113. 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 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 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 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 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. 114. 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 department:

(1) Any person required to present information to the department pursuant to this section may request that specific information be held in confidence. The 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 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 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 department and shall be treated in a confidential manner.

(4) Information presented to or developed by the department and deemed confidential pursuant to this section shall be held in confidence by the department. Confidential information shall be aggregated or masked to the extent necessary to 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 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 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 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 department or its designee shall rule on a request made pursuant to paragraph (2) on or before 20 working days after its receipt. The 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 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) Information submitted to the department pursuant to this section is not confidential if the person submitting the information has made it public.

(d) The 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 department shall incorporate the following elements into its security practices and procedures:

(1) 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) Department employees, or contract employees of the 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 department employees and the public.

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

SEC. 115. Section 25323 of the Public Resources Code is amended to read:

25323. This division does not authorize the department in the performance of its analytical, planning, siting, or certification responsibilities to mandate a specified supply plan for any utility.

SEC. 116. Section 25324 of the Public Resources Code is amended to read:

25324. The 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 each integrated energy policy report adopted pursuant to subdivision (a) of Section 25302.

SEC. 117. Section 25331 of the Public Resources Code is amended to read:

25331. (a) The 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 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 board and shall be supported by any information that the board may require.

SEC. 118. 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 department shall be the lead agency, as provided in Section 21165, for all transmission corridor zones proposed for designation pursuant to this chapter.

SEC. 119. 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 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 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 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. 120. 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 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 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 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 department's Internet Web site.

(b) As soon as practicable after the receipt of an application or upon the board's motion for designation of a transmission corridor zone, the 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 department's notice shall solicit information from, and the 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 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 board's review of a proposed transmission corridor zone.

(c) The 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 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 department for all costs associated with reviewing the application. If the board initiates the designation of a transmission corridor zone on its own motion, the 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 department's added costs.

(e) Upon receiving the 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 the actual and added costs of this review and the department shall pay this amount to the city or county.

SEC. 121. 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 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 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. 122. Section 25336 of the Public Resources Code is amended to read:

25336. (a) Within 155 days of the final informational hearing, the 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 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 board shall conduct hearings pursuant to the hearing order. The purpose of the hearings shall be to receive information upon which the board can make findings and conclusions pursuant to Section 25337.

SEC. 123. 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 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 board considers relevant.

SEC. 124. Section 25338 of the Public Resources Code is amended to read:

25338. As soon as practicable after the board designates a transmission corridor zone, the department shall post a copy of the board's decision on the department's Internet Web site, send a copy of 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 department's Internet Web site.

SEC. 125. Section 25339 of the Public Resources Code is amended to read:

25339. After the board designates a transmission corridor zone, the department shall identify that transmission corridor zone in its subsequent strategic plans adopted by the board pursuant to Section 25324. The 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 board shall follow the procedures of this chapter. If, upon regular review or at any other time, the board finds that a transmission corridor zone is no longer needed, the board 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. 126. Section 25340 of the Public Resources Code is amended to read:

25340. After receiving notice from the 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. 127. 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 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 board to provide written comments to the city or county regarding the proposed development project.

(b) If the 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 board shall provide written comments to the city or county.

The 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 board's comments, if any, prior to acting on the proposed development project. If the 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 board's comments and recommendations.

SEC. 128. 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 department in the form and extent as the 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 department in the form and extent as the 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 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 department.

(d) In addition to the data required under subdivision (a), each integrated oil refiner (who produces, refines, transports, and markets in interstate commerce) who supplies more than 500 branded retail outlets in California shall submit to the department an annual industry forecast for Petroleum Administration for Defense, District V (covering Alaska, Arizona, California, Hawaii, Nevada, 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 department may require California-specific forecasts. However, those forecasts shall be required only if the department finds them necessary to carry out its responsibilities.

(e) The 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 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 department, within 30 days after the end of each monthly reporting period, all of the following information in such form and extent as the 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 department, shall submit a report in the form and extent as the department prescribes pursuant to this section. The 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 department to collect additional data under subdivision (f).

(3) This subdivision is intended to clarify the department's existing authority under subdivision (f) to collect specific information. This subdivision does not either preclude or augment the existing authority of the department to collect information.

SEC. 129. Section 25356 of the Public Resources Code is amended to read:

25356. (a) The 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 department shall analyze the impacts of state and federal policies and regulations upon the supply and pricing of petroleum products.

SEC. 130. Section 25357 of the Public Resources Code is amended to read:

25357. The department shall obtain and analyze monthly production reports prepared by the State Oil and Gas Supervisor pursuant to Section 3227.

SEC. 131. 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 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 25302. Any person may submit comments in writing regarding the accuracy or sufficiency of the information submitted.

(b) The 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 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 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 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. 132. Section 25362 of the Public Resources Code is amended to read:

25362. (a) The 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 department regarding the information and the department has not yet held a hearing on the matter, or the 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 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. 133. Section 25364 of the Public Resources Code is amended to read:

25364. (a) A person required to present information to the 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 department pursuant to Section 25354 shall be held in confidence by the department or aggregated to the extent necessary to 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 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 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 department shall issue a written decision 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 department shall not make public disclosure of information submitted to it pursuant to Section 25354 within 10 working days after the department has issued its written decision required in this section.

(e) Information submitted to the 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 board members nor any employee of the 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 board members and employees of the 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 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. 134. Section 25366 of the Public Resources Code is amended to read:

25366. Any confidential information pertinent to the responsibilities of the department specified in this division that is obtained by another state agency shall be available to the department and shall be treated in a confidential manner.

SEC. 135. Section 25400 of the Public Resources Code is amended to read:

25400. The department shall conduct an ongoing assessment of the opportunities and constraints presented by all forms of energy. The 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. 136. Section 25401 of the Public Resources Code is amended to read:

25401. (a) The 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:

(1) Pricing of electricity and other forms of energy.

(2) Improved building design and insulation.

(3) Restriction of promotional activities designed to increase the use of electrical energy by consumers.

(4) Improved appliance efficiency.

(5) Advances in power generation and transmission technology.

(6) Comparisons in the efficiencies of alternative methods of energy utilization.

(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 department shall transmit to the Governor and the Legislature, as part of the biennial report specified in Section 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. 137. 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 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 department and Public Utilities Commission proceedings.

(b) The 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 department shall convene a technical advisory group to develop an 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. 138. 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 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 department may comply with this section by posting the measures on the department's Internet Web site or by making the measures available to the public, upon request.

SEC. 139. Section 25401.6 of the Public Resources Code is amended to read:

25401.6. (a) In its administration of Section 25744, the 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 department determines that the occupants of the housing shall have individual meters, the 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 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. 140. 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 department.

SEC. 141. Section 25401.9 of the Public Resources Code is amended to read:

25401.9. (a) To the extent that funds are available, the 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 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 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. 142. Section 25402 of the Public Resources Code is amended to read:

25402. The board, with the support of 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 board shall periodically update the standards and adopt any revision that, in its judgment, it deems necessary. Six months after the board certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, 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 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 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 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 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 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 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 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 this subdivision and subdivision (a), the 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 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 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 this subdivision and subdivision (a) 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 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 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 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 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 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 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 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 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) A new appliance, except for any plumbing fitting, regulated under paragraph (1), that is manufactured on or after July 1, 1984, 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 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 board adopts other cost-effective measures for that appliance.

(4) Neither the 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 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 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 board after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that the 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 board to carry out the purposes of the study. The 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 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 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 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 board may adopt standards pursuant to 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 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 board shall be governed by that chapter of the Health and Safety Code to the extent of the conflict.

(e) The 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. 143. 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 department shall do all of the following:

(a) Develop a public domain computer program that will enable contractors, builders, architects, engineers, and government officials to estimate the energy consumed by residential and nonresidential buildings. The 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 department. The 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 department may charge and collect a reasonable fee from applicants to cover the costs under this subdivision. Any funds received by the 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 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 department. The 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 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 California Building Standards Commission, 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 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 that the 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 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 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 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 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 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 department may establish a schedule of fees sufficient to pay the costs incurred by that enforcement.

(5) Construction of 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 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 department and the 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 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 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 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 board for resolution. The 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. 144. Section 25402.2 of the Public Resources Code is amended to read:

25402.2. Any standard adopted by the 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 board and published in the State Building Standards Code shall be enforced as provided in Sections 25402 and 25402.1.

SEC. 145. Section 25402.3 of the Public Resources Code is amended to read:

25402.3. For purposes of subdivision (e) of Section 25402.1, the 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. 146. Section 25402.4 of the Public Resources Code is amended to read:

25402.4. The standards for nonresidential buildings prescribed by the 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. 147. 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 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 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 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 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. 148. Section 25402.5.4 of the Public Resources Code is amended to read:

25402.5.4. (a) On or before December 31, 2008, the 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 board shall make recommendations to the Governor and the Legislature regarding how to continue reductions in electrical consumption for lighting beyond 2018.

(c) The 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 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 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 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 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. 149. Section 25402.6 of the Public Resources Code is amended to read:

25402.6. The 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 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. 150. Section 25402.7 of the Public Resources Code is amended to read:

25402.7. (a) In consultation with the 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. 151. 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 board shall include in its deliberations the impact that those standards would have on indoor air pollution problems.

SEC. 152. Section 25402.9 of the Public Resources Code is amended to read:

25402.9. (a) On or before July 1, 1996, the department shall develop, 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 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 department shall charge a fee for the informational booklet to recover its costs under subdivision (a).

SEC. 153. Section 25403 of the Public Resources Code is amended to read:

25403. The 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 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 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 the recommendations.

SEC. 154. Section 25403.5 of the Public Resources Code is amended to read:

25403.5. (a) The 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 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 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 board may determine that one or more of the load management techniques are infeasible and may delay their adoption. If the 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 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 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 board prior to the effective date of the standards.

SEC. 155. Section 25403.8 of the Public Resources Code is amended to read:

25403.8. (a) The 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 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 department shall determine a priority schedule for the installation of battery backup power for traffic control systems. The 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 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 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 department pursuant to subdivision (b). The 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 October 1, 2001, the 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 board may not spend more than one million five hundred thousand dollars ($1,500,000) for reimbursements pursuant to this subdivision.

SEC. 156. Section 25404 of the Public Resources Code is amended to read:

25404. The department shall cooperate with 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. 157. 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 board pursuant to Chapter 8.8 (commencing with Section 25780) of Division 15.

(c) The 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. 158. Section 25405.6 of the Public Resources Code is amended to read:

25405.6. Not later than July 1, 2007, the 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 board may determine that a solar energy system should not be required for any building unless the 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 board shall consider the availability of governmental rebates, tax deductions, net metering, and other quantifiable factors, if the board can determine the availability of these financial incentives if a solar energy system is made mandatory and not elective. The department shall periodically update the study and incorporate any revision that the department and the board determines is necessary, including revisions that reflect changes in the financial incentives originally considered by the 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 board to develop and adopt any requirement for solar energy systems on either residential or nonresidential buildings.

SEC. 159. 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 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. 160. Section 25410.6 of the Public Resources Code is amended to read:

25410.6. (a) It is the intent of the Legislature that the 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 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. 161. Section 25412 of the Public Resources Code is amended to read:

25412. Any eligible institution may submit an application to the 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 the form and contain the information 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 the costs that are to be jointly funded through a state, local, or federal-local program.

SEC. 162. Section 25413 of the Public Resources Code is amended to read:

25413. Applications may be approved by the department only in those instances where the eligible institution has furnished information satisfactory to the 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 department.

SEC. 163. 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 department.

SEC. 164. 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 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 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 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. 165. 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 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 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 department.

(d) The 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 department on July 1 of each year.

(e) The 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 department on July 1 of each fiscal year.

(f) The 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. 166. 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 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 this request.

SEC. 167. Section 25417.5 of the Public Resources Code is amended to read:

25417.5. (a) In furtherance of the purposes of the department as set forth in this chapter, the 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 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 department, to the California Economic Development Financing Authority and the California Infrastructure and Economic Development Bank to raise funds to enable the 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 department as conditions of issuing bonds to fund loans to, or the purchase of loans from, the 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 department may enter into pledge agreements setting forth the terms and conditions pursuant to which the 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 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. 168. Section 25419 of the Public Resources Code is amended to read:

25419. In addition to the powers specifically granted to the department by the other provisions of this chapter, the 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 procedures and policies as may be necessary for the administration of this chapter.

SEC. 169. Section 25420 of the Public Resources Code is amended to read:

25420. The department may expend from the State Energy Conservation Assistance Account an amount to pay for the actual administrative costs incurred by the department pursuant to this chapter. The amount shall not exceed 5 percent of the annual unencumbered balance in the account as determined by the department on July 1 of each fiscal year, to be used to defray costs incurred by the department for allocations made by the department pursuant to this chapter.

SEC. 170. Section 25422 of the Public Resources Code is amended to read:

25422. (a) Federal funds available to the department pursuant to Chapter 5.6 (commencing with Section 25460) may be used by the 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. 171. 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 board.

(c) "Small business" means any small business as defined in paragraph (1) of subdivision (d) of Section 14837 of the Government Code.

SEC. 172. Section 25433 of the Public Resources Code is amended to read:

25433. It is the intent of the Legislature to establish incentives in the form of grants and loans to low-income residents, small businesses, and residential property owners for constructing and retrofitting buildings to be more energy efficient by using design elements, including, but not limited to, energy-efficient siding, insulation, products certified as energy efficient zone heating products by the board within the department, and double-paned windows.

SEC. 173. Section 25433.5 of the Public Resources Code is amended to read:

25433.5. (a) The department, in consultation with the Public Utilities 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 department shall use the design guidelines adopted pursuant to paragraph (2) of subdivision (f) of Section 14 of 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 department upon a showing that the department applied factors, other than those adopted by the 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 department, does not constitute the rendering of goods, services, or a direct benefit to the 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. 174. Section 25434 of the Public Resources Code is amended to read:

25434. The department may contract with one or more business entities capable of supplying or providing goods or services necessary for the 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 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 department determines that it is in the best interest of the state.

SEC. 175. 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 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 departmental guidelines under paragraph (2) of subdivision (f) of Section 14 of 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. 176. Article 3 (commencing with Section 25435) of Chapter 5.3 of Division 15 of the Public Resources Code is repealed.

SEC. 177. Section 25441 of the Public Resources Code is amended to read:

25441. The 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. 178. Section 25442 of the Public Resources Code is amended to read:

25442. The department shall provide loans to local jurisdictions for all of the following purposes:

(a) Purchase, maintenance, and evaluation of energy-efficient peak load reduction equipment for existing 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) Improvement of the operating efficiency of existing local transportation systems.

SEC. 179. Section 25442.5 of the Public Resources Code is amended to read:

25442.5. The 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. 180. 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 department determines 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 department. Repayment of loans shall be made in full unless the department determines 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. 181. 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 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 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. 182. Section 25443.5 of the Public Resources Code is amended to read:

25443.5. (a) In furtherance of the purposes of the department as set forth in this chapter, the 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 from the proceeds of revenue bonds issued by 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 department, to the California Economic Development Financing Authority and the California Infrastructure and Economic Development Bank to raise funds to enable the 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 department as conditions of issuing bonds to fund loans to, or the purchase of loans from, the 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 department may enter into pledge agreements setting forth the terms and conditions pursuant to which the 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 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. 183. Section 25445 of the Public Resources Code is amended to read:

25445. The 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 department's existing local government assistance programs, except that if a project is not eligible for funding under an existing program, the department may fund the project under this chapter.

SEC. 184. Section 25449 of the Public Resources Code is amended to read:

25449. (a) The 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:

(1) Data collection.

(2) Establishment of operations and maintenance standards.

(3) Staff training.

(4) Ongoing energy equipment maintenance.

(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. 185. Section 25449.1 of the Public Resources Code is amended to read:

25449.1. The department shall enter into an agreement with the State Department of Education to expend petroleum violation escrow funds to supplement, and not supplant, other available funds in order to provide loans to school districts to purchase, maintain, and evaluate energy-efficient equipment and small power production systems.

SEC. 186. Section 25449.2 of the Public Resources Code is amended to read:

25449.2. Not later than three years after the imposition of any fees pursuant to this chapter, the department shall report to the Legislature in the biennial energy conservation report required by Section 25401.1, on the effect of those fees on alternative public and private financing for public sector programs.

SEC. 187. 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 department.

(b) The department may charge a fee for the services provided under this chapter.

(c) The 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 department not later than July 1 of each fiscal year.

SEC. 188. Section 25449.4 of the Public Resources Code is amended to read:

25449.4. (a) Except as provided in subdivision (b), this chapter shall remain in effect until January 1, 2011, and as of that date is repealed, unless a later enacted statute which is enacted before January 1, 2011, deletes or extends that date.

(b) All loans outstanding as of January 1, 2011, shall continue to be repaid in accordance with a schedule established by the department pursuant to Section 25442.7, until paid in full. All unexpended funds in the Local Jurisdiction Energy Assistance Account on January 1, 2011, and thereafter, except to the extent that those funds are encumbered pursuant to Section 25443.5, shall be deposited in the Federal Trust Fund and be available for the purposes for which federal oil overcharge funds are available pursuant to court judgment or federal agency order.

SEC. 189. 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 department. Moreover, to the extent possible without causing undue delay, the 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 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. 190. Section 25450.1 of the Public Resources Code is amended to read:

25450.1. The 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. 191. Section 25450.3 of the Public Resources Code is amended to read:

25450.3. The 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. 192. Section 25450.4 of the Public Resources Code is amended to read:

25450.4. The 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. 193. Section 25450.5 of the Public Resources Code is amended to read:

25450.5. (a) The 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 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 board upon a showing that factors other than those described in the guidelines adopted by the board were applied in making the awards and payments.

SEC. 194. 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 department.

(b) It is the intent of the Legislature that the 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. 195. 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 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 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. 196. Section 25462 of the Public Resources Code is amended to read:

25462. (a) The 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 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 board upon a showing that factors other than those described in the guidelines adopted by the board were applied in making the awards and payments.

SEC. 197. 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 department pursuant to this chapter may be used by the 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 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 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. 198. 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) "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.

(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.

(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.

(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.

(h) "Fund" means the Energy Efficient State Property Revolving Fund.

(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.

(j) "State agency" means a unit of state government, including any department, agency, board, or commission under the State of California.

(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. 199. 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 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 of General Services. The 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 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 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. 200. Section 25472 of the Public Resources Code is amended to read:

25472. (a) The Department of General Services, in consultation with the department, shall establish a process by which projects are identified and funding is allocated.

(b) Beginning July 1, 2009, the 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 of General Services shall comply with the requirements of the act and implementing guidelines of the 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 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 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 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 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 of General Services may utilize a direct billing methodology to recover loan repayments for completed projects.

SEC. 201. Section 25473 of the Public Resources Code is amended to read:

25473. (a) On or before January 1, 2010, and annually thereafter, the Department of General Services, in collaboration with the 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 of General Services, in collaboration with the department, shall submit to the Legislature an update to the January 1, 2010, report.

SEC. 202. 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 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. 203. Section 25494 of the Public Resources Code is amended to read:

25494. Not later than July 31, 1978, the 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. 204. Section 25495 of the Public Resources Code is amended to read:

25495. No later than July 31, 1978, the 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. 205. Section 25496 of the Public Resources Code is amended to read:

25496. No later than July 1, 1978, the 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 department may provide advice and recommendations to the public or any governmental agency as to the standards.

SEC. 206. 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. 207. Section 25500 of the Public Resources Code is amended to read:

25500. In accordance with the provisions of this division, the 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 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. 208. Section 25500.5 of the Public Resources Code is amended to read:

25500.5. The board shall certify sufficient sites and related facilities that are required to provide a supply of electric power sufficient to accommodate the demand projected in the most recent forecast of statewide and regional electric power demands forecasted pursuant to Section 25303.

SEC. 209. Section 25501 of the Public Resources Code is amended to read:

25501. This chapter does not apply to any site or related facility 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. 210. Section 25501.7 of the Public Resources Code is amended to read:

25501.7. A person proposing to construct a facility or a site to which Section 25501 applies may waive the exclusion of the site and related facility from the provisions of this chapter by submitting to the 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 the facility.

SEC. 211. Section 25502 of the Public Resources Code is amended to read:

25502. (a) Each person proposing to construct a thermal powerplant or electric transmission line on a site shall submit to the department 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 board and assessments of need adopted pursuant to Sections 25305 to 25308, inclusive. The notice shall be in the form prescribed by the department and shall be supported by information that the board may require.

(b) 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. 212. Section 25502.3 of the Public Resources Code is amended to read:

25502.3. Except as provided in Section 25501.7, a person proposing to construct a facility excluded from this chapter may waive that exclusion by submitting to the department 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 that facility.

SEC. 213. Section 25504 of the Public Resources Code is amended to read:

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 department.

SEC. 214. Section 25504.5 of the Public Resources Code is amended to read:

25504.5. An applicant may, in the notice, propose a site to be approved that will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for the initial approval of the board. If this 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 that the site is proposed ultimately to accommodate 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. 215. Section 25505 of the Public Resources Code is amended to read:

25505. Upon receipt of a notice, the department 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 department 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. 216. Section 25506 of the Public Resources Code is amended to read:

25506. The department 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. 217. Section 25506.5 of the Public Resources Code is amended to read:

25506.5. The department 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. 218. Section 25507 of the Public Resources Code is amended to read:

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 department 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 department 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. 219. Section 25508 of the Public Resources Code is amended to read:

25508. The 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 the proceedings.

SEC. 220. Section 25509 of the Public Resources Code is amended to read:

25509. Within 45 days of the filing of the notice, the department shall conduct public informational presentations in the county or counties in which the proposed sites and related facilities are located. The place of the public informational presentations shall be as close as practicable to the proposed sites. The 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. 221. Section 25509.5 of the Public Resources Code is amended to read:

25509.5. No sooner than 15 days after the conclusion of the presentations pursuant to Section 25509, the department and the board shall commence nonadjudicatory hearings. The hearings shall identify issues for adjudication in hearings pursuant to Section 25513, issues that may be eliminated from further consideration in the notice proceedings, and issues that should be deferred to the certification proceeding. Any person may participate to the extent deemed reasonable and relevant by the presiding member of the board in the hearings. In scheduling the 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. The 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. 222. Section 25510 of the Public Resources Code is amended to read:

25510. After the conclusion of the hearings pursuant to Section 25509.5, and no later than 150 days after filing of the notice, the department shall prepare and make public a summary and hearing order on the notice of intention to file an application. The department may include within the summary and hearing order any other alternatives proposed by the board or presented to the board 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. 223. Section 25511 of the Public Resources Code is amended to read:

25511. The department and the board 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 board 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 any other information that the board may determine to be relevant to the reliability and safety of the facility at the proposed sites. The board shall analyze the information provided by the applicant, supplementing it, where necessary, by onsite investigations and other studies. The board 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. 224. Section 25512 of the Public Resources Code is amended to read:

25512. (a) 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 department and the board, and independent studies conducted by the department's staff.

(b) The summary and hearing order shall:

(1) Identify those issues for consideration in hearings pursuant to Section 25513.

(2) Identify those issues which may be eliminated from further consideration in the notice of intention proceedings.

(3) Identify those issues which should be deferred to the certification proceeding.

(4) Contain proposed findings on matters relevant to the provisions of Section 25514.

(5) Specify dates for the adjudicatory hearings.

SEC. 225. Section 25513 of the Public Resources Code is amended to read:

25513. No earlier than 30 days after distribution of the summary and hearing order, the board shall commence adjudicatory hearings pursuant to the hearing order.

SEC. 226. Section 25513.3 of the Public Resources Code is amended to read:

25513.3. Notwithstanding Sections 11425.30 and 11430.10 of the Government Code, unless a party demonstrates other statutory grounds for disqualification, a person who has served as investigator or advocate in an adjudicative proceeding of the board under this code may serve as a supervisor of the presiding officer or assist or advise the presiding officer of the board in the same proceeding if the service, assistance, or advice occurs more than one year after the time the person served as investigator or advocate and if the content of any advice is disclosed on the record and all parties have an opportunity to comment on the advice.

SEC. 227. Section 25514 of the Public Resources Code is amended to read:

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 board 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 board to certify sites and related facilities; and the standards adopted by the board 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 board'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 board. 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 board may specify modification in the design, construction, location, or other conditions that will meet the standards, policies, and guidelines established by the board.

(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 board 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. 228. Section 25514.3 of the Public Resources Code is amended to read:

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 board shall request the comments and recommendations of the Public Utilities Commission on the economic, financial, rate, system reliability, and service implications of the modifications, conditions, or criteria.

SEC. 229. Section 25514.5 of the Public Resources Code is amended to read:

25514.5. In considering the acceptability of a site proposed to accommodate ultimately additional power-generating capacity, the board, 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. 230. Section 25516 of the Public Resources Code is amended to read:

25516. (a) The approval of the notice by the board shall be based upon findings pursuant to Section 25514. The notice shall not be approved unless the board finds at least two alternative site and related facility proposals considered in the board's final report as acceptable. If the board 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.

(b) If the board 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 board 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 board 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 board in previous notice of intention proceedings.

(c) If the board 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 board 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 board 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. 231. Section 25516.1 of the Public Resources Code is amended to read:

25516.1. If a site and related facility found to be acceptable by the board 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, an application for certification shall not be filed pursuant to Section 25519 unless the board has determined, pursuant to Section 25514, that the site and related facility have greater relative merit than available alternative sites and related facilities for an applicant's service area that have been determined to be acceptable by the board pursuant to Section 25516.

SEC. 232. Section 25516.5 of the Public Resources Code is amended to read:

25516.5. (a) On a notice that proposes an expanded ultimate electric generating capacity for a site, the board 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 additional capacity shall be determined by the board.

(b) If a notice is approved that 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 board 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. 233. Section 25516.6 of the Public Resources Code is amended to read:

25516.6. (a) Except as otherwise expressly provided in this division, the board 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 board and the applicant.

(b) The board shall determine, within 45 days after it receives the notice, whether the notice is complete. If the board 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 board determines that the notice is incomplete, the board shall specify, in writing, those parts of the notice that 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 board 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 board determines the notice is complete if the board has adopted regulations specifying the informational requirements for a complete notice, but if the board has not adopted regulations, the notice shall be deemed filed on the last date the board receives any additional data that completes the notice.

SEC. 234. Section 25517 of the Public Resources Code is amended to read:

25517. Except as provided in Section 25501, construction of a thermal powerplant 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 board to be necessary to protect the environment, if certification is denied.

SEC. 235. Section 25518 of the Public Resources Code is amended to read:

25518. The Public Utilities Commission shall not issue a certificate of public convenience and necessity for a site or related electrical facilities unless the utility has obtained a certificate from the board.

SEC. 236. 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 department. The application shall be in a form prescribed by the board and shall be for a site and related facility that has been found to be acceptable by the board 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 shall 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 board, unless the board has approved the notice based on the one site as specified in Section 25516.

(b) The 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 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 department'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 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 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 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 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 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 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 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 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 board requires modification of the proposed facility, the department shall consult with the Public Utilities Commission regarding the economic, financial, rate, system reliability, and service implications of those modifications.

(k) The 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 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. 237. 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 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, 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 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.

SEC. 238. Section 25520.5 of the Public Resources Code is amended to read:

25520.5. (a) In reviewing an application for an additional facility at a potential multiple-facility site, the board 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 board 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 board on the application.

(c) The decision of the board 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 a later time that is mutually agreed upon by the board and the applicant.

SEC. 239. 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 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 board may hold a hearing or hearings in the county in which the proposed site and related facilities are to be located. The board hearings shall provide a reasonable opportunity for the public and all parties to the proceeding to comment upon the application and the 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 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. 240. 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 months of the filing of an application for certification, or within 12 months if it is filed within one year of the board's approval of the notice of intent, or at a later time that is mutually agreed upon by the board and the applicant, the board shall issue a written decision as to the application.

(b) The department shall determine, within 45 days after it receives the application, whether the application is complete. If the 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 department determines that the application is incomplete, the department shall specify in writing those parts of the application that 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 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 department determines the application is complete if the board has adopted regulations specifying the informational requirements for a complete application, but if the board has not adopted regulations, the application shall be deemed filed on the last date the department receives any additional data that completes the application.

SEC. 241. Section 25523 of the Public Resources Code is amended to read:

25523. The board shall prepare a written decision after the public hearing on an application, 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 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 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 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 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 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 department shall inform the state, local, or regional governmental agency if it makes the findings required by Section 25525.

(2) The 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 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 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 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. 242. 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, 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 board until both of the following conditions are met:

(1) The 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 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 board may proceed to certify nuclear fission thermal powerplants 100 legislative days after reporting 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 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 board as to an appropriate method of bringing the board's findings into conformance with paragraph (1).

(4) If a disaffirming resolution is adopted, the board shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its reexamination, the 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 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.

(6) To allow sufficient time for the Legislature to act, the reports of findings of the board shall be submitted to the Legislature at least six calendar months prior to the adjournment of the Legislature sine die.

(b) The 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 board shall continue to receive and process 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 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. 243. 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, 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 board until both of the following conditions have been met:

(a) The 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 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 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 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 board as to an appropriate method of bringing the board's findings into conformance with subdivision (a).

(3) If a disaffirming resolution is adopted, the board shall reexamine its original findings consistent with matters raised in the resolution. On conclusion of its reexamination, the 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 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 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 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 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 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. 244. Section 25524.5 of the Public Resources Code is amended to read:

25524.5. The board shall not certify any facility that adds generating capacity to a potential multiple-facility site in excess of the maximum allowable capacity established by the board pursuant to Section 25516.5, unless the board 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 board's findings on the notice for that site pursuant to Sections 25516 and 25516.5.

SEC. 245. Section 25525 of the Public Resources Code is amended to read:

25525. The board shall not certify a facility contained in the application 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 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 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 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. 246. Section 25526 of the Public Resources Code is amended to read:

25526. (a) The 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 the use is not inconsistent with the primary uses of 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 the land is obtained.

(b) The 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 the land is obtained.

SEC. 247. 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 board finds that the use is not inconsistent with the primary uses of those lands and that there will be no substantial adverse environmental effects and the approval of any public agency having ownership or control of 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 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, archeological, 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. 248. Section 25528 of the Public Resources Code is amended to read:

25528. (a) The 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 that will result in population densities in excess of the maximum population densities that the board determines, as to the factors considered by the 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 those development rights that the board requires be acquired.

(b) In the case of an application for a nuclear facility, the area and population density necessary to ensure the public's health and safety designated by the board shall be that as determined from time to time by the United States Nuclear Regulatory Commission, if the board finds that the determination is sufficiently definitive for valid land use planning requirements.

(c) The board shall waive the requirements of the acquisition of development rights by an applicant to the extent that the 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 ensure the public health and safety requirements set pursuant to this section.

(d) No change in governmental land use restrictions in areas designated in subdivision (c) of this section by any government agency shall be effective until approved by the board. 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. 249. Section 25529 of the Public Resources Code is amended to read:

25529. If a facility is proposed to be located in the coastal zone or any other area with recreational, scenic, or historic value, the 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 board. Lands within 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 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 the zone to the state. The 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. 250. Section 25530 of the Public Resources Code is amended to read:

25530. (a) The board may order a reconsideration of all or part of a decision or order on its own motion or on petition of any party.

(b) The petition for reconsideration shall be filed within 30 days after adoption by the board of a decision or order. The board shall not order a reconsideration on its own motion more than 30 days after it has adopted a decision or order. The board shall order or deny reconsideration on a petition within 30 days after the petition is filed.

(c) A decision or order may be reconsidered by the board on the basis of all pertinent portions of the record together with any argument that the board may permit, or the board may hold a further hearing, after notice to all interested persons. A decision or order of the board on reconsideration shall have the same force and effect as an original order or decision.

SEC. 251. Section 25531 of the Public Resources Code is amended to read:

25531. (a) The decisions of the board on any application for certification of a site and related facility are subject to judicial review by the Supreme Court of California.

(b) New or additional evidence shall not be introduced upon review and the cause shall be heard on the record of the board as certified to by it. The review shall not be extended further than to determine whether the 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 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 board. A report prepared by, or an approval of, the board pursuant to Section 25510, 25514, 25516, or 25516.5, or subdivision (b) of Section 25520.5, shall not constitute a decision of the board subject to judicial review.

(c) Subject to the right of judicial review of decisions of the 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 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 board.

(d) Notwithstanding Section 1250.370 of the Code of Civil Procedure:

(1) If the 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 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) A decision of the 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. 252. Section 25532 of the Public Resources Code is amended to read:

25532. The 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 board or specified in the written decision on the application. In designing and operating the monitoring system, the 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. 253. Section 25534 of the Public Resources Code is amended to read:

25534. (a) The 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 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 board in its written decision.

(3) A violation of this division or any regulation or order issued by the board under this division.

(b) The 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 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 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 board shall approve milestones within 60 days after project certification. If the 30-day deadline to submit construction milestones to the board is not met, the board shall establish milestones for the project.

(d) The failure of the owner of a project subject to the state-of-construction deadline provided by paragraph (4) of subdivision (a) to meet construction or commercial operation milestones, without a finding by the board of good cause, shall be cause for revocation of certification or the imposition of other penalties by the department.

(e) A finding by the board 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 board 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 board.

(f) The board shall extend the start-of-construction deadline required by paragraph (4) of subdivision (a) by an additional 24 months if the owner reimburses the department'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 department's actual cost of licensing the project shall be based on a certified audit report filed by the department staff within 180 days of the board'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 department 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 board and has not received an extension pursuant to subdivision (f), the department 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 department 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 board 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 board.

(h) If the board 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 board 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 board, without good cause, the certification may be revoked.

(i) (1) If the board 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 department documentation of the actual costs incurred in permitting the project. The department 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 board. In the event of a sale to an entity that is not an affiliate of the certificate holder, the board 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, if the board 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 board that the project is needed to meet the projected native load of the local publicly owned utility.

(m) To implement this section, the department 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. 254. Section 25534.1 of the Public Resources Code is amended to read:

25534.1. (a) The 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 board. The complainant may waive the right to a hearing, in which case the board shall not conduct a hearing.

(c) After any hearing, the board may adopt, with or without revision, the proposed decision and order of the 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 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. 255. 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 board is not subject to review by any court or agency, except that the 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 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 board pursuant to this section shall be deposited in the General Fund.

SEC. 256. Section 25537 of the Public Resources Code is amended to read:

25537. Upon approval of an application by the board, the 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 board's determination of facility safety and reliability as provided in Section 25511.

SEC. 257. Section 25538 of the Public Resources Code is amended to read:

25538. Upon receiving the board's request for review under subdivision (f) of Section 25519 and Section 25506, the local agency may request a fee from the board to reimburse the local agency for the actual and added costs of this review by the local agency. The board shall reimburse the local agency for the added costs that shall be actually incurred by the local agency in complying with the 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 these fees may only be requested in accordance with actual services performed by the local agency. The board shall either request a fee from the person proposing the project or devote a special fund in its budget for the reimbursement of these costs incurred by local agencies.

SEC. 258. 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 board shall adopt rules and regulations as necessary to ensure that relevant duties pursuant to this division are carried out.

SEC. 259. 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 board shall not require three alternative sites and related facilities to be proposed in the notice. Except as otherwise provided, the 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 board and the applicant or person submitting the notice or application.

SEC. 260. Section 25540.1 of the Public Resources Code is amended to read:

25540.1. The 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 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 board the additional information requested by the board to make the notice or application complete, the 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 board determines the notice or application is completed if the board has adopted regulations specifying the informational requirements for a complete notice or application, but if the board has not adopted regulations, the notice or application shall be deemed filed on the last date the board receives any additional data that completes the notice or application.

SEC. 261. Section 25540.2 of the Public Resources Code is amended to read:

25540.2. Notwithstanding any other law:

(a) If an applicant proposes to construct a geothermal powerplant at a site that, at the outset of the proceeding, the applicant can reasonably demonstrate to be capable of providing geothermal resources in commercial quantities, a notice of intention pursuant to Section 25502 shall not be required, and the board 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 a later time that is mutually agreed upon by the board and the applicant.

(b) Upon receipt of an application for certification of a geothermal powerplant and related facilities, the department shall transmit a copy of the application to every state and local agency having jurisdiction over land use in the area involved.

SEC. 262. 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, the application shall include all of the following, to the extent known:

(1) The number, type, and energy source of electric generating units 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 facilities, switchyards, and cooling ponds, lakes, or towers.
(6) Other information relating to the design, operation, and siting of the facility that the board may by regulation require.
(b) (1) If an application is filed pursuant to subdivision (a) that proposes a site to be approved that will accommodate a potential maximum electric generating capacity in excess of the capacity being proposed for initial construction, the 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 board.
(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 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. 263. Section 25540.4 of the Public Resources Code is amended to read:

25540.4. Notwithstanding any other law:
(a) The decision of the board 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 a later time that is mutually agreed upon by the board and the applicant.
(b) In reviewing an application for an additional facility at a potential multiple facility site, the board 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. The reconsideration must be completed within seven months after acceptance of the application for an additional facility.

(c) The board 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. 264. Section 25540.5 of the Public Resources Code is amended to read:

25540.5. The board may, at the petition of a county that has adopted a geothermal element for its general plan, approve an equivalent certification program that delegates to that county full authority for the certification of all geothermal powerplants within that county. Once approved by the 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 that county. The board may, after public hearings, revoke the approved equivalent certification program of the county if the board finds that the program does not comply with current 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 board.

(d) Appeal procedures, including appeals to the board on substantive issues. In any such appeal on a substantive issue, the board shall determine whether the act or decision is supported by substantial evidence in the light of the whole record. The 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. 265. Section 25540.6 of the Public Resources Code is amended to read:

25540.6. (a) Notwithstanding any other law, a notice of intention is not required, and the board 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 that is mutually agreed upon by the board and the applicant, for any of the following:

(1) A thermal powerplant that 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. The 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. The facility may not exceed 300 megawatts unless the board, by regulation, authorizes a greater capacity. Section 25524 does not apply to the 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 board may also accept an application for a noncogeneration project at an existing industrial site without requiring a discussion of site alternatives if the board 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. 266. Section 25541 of the Public Resources Code is amended to read:

25541. The 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 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. 267. 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 (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, 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 board shall amend the regulatory program from time to time, as necessary to permit the 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. 268. 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 board pursuant to Section 25500 to certify sites and related facilities shall not be in effect.

SEC. 269. 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) The department 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 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 board's siting and licensing process.

(c) The 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. 270. Section 25601 of the Public Resources Code is amended to read:

25601. The 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 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 ensure acceptable resolution of 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 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 shall be allocated for large-scale demonstration of alternative energy systems.

SEC. 271. Section 25602 of the Public Resources Code is amended to read:

25602. The 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.

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. 272. Section 25603 of the Public Resources Code is amended to read:

25603. For research purposes, the 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 those designs.

SEC. 273. Section 25603.5 of the Public Resources Code is repealed.

SEC. 274. Section 25605 of the Public Resources Code is amended to read:

25605. On or before November 1, 1978, the 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. These provisions may include any or all of the following:

(1) Procedures for the accreditation by the 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 department of any data resulting from the testing and inspection of solar devices.

(4) Prohibitions on the sale of solar devices that do not meet minimum requirements for safety and durability as established by the board.

(5) Dissemination of the results of the testing, inspection, and certification program to the public.

(c) In adopting the regulations, the department shall give due consideration to their effect on the cost of purchasing, installing, operating, and maintaining solar devices. The department, with the approval of the board, 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 department may amend or repeal these regulations based on such reassessment.

(d) Under no circumstances may the 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 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. 275. Section 25605.5 of the Public Resources Code is amended to read:

25605.5. Standards adopted by the 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 board and published in the State Building Standards Code shall comply with, and be enforced as provided in, Section 25605.

SEC. 276. Section 25608 of the Public Resources Code is amended to read:

25608. The 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. 277. Section 25609 of the Public Resources Code is amended to read:

25609. The board may, in adopting regulations pursuant to this chapter, specify the date when the regulations shall take effect. The board may specify different dates for different regulations.

SEC. 278. Section 25609.5 of the Public Resources Code is amended to read:

25609.5. The effective dates of building standards adopted by the 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. 279. Section 25610 of the Public Resources Code is amended to read:

25610. For purposes of carrying out the provisions of this chapter, the 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. 280. 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 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 that are not otherwise subject to 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 department shall provide assistance at the request of local agencies.

(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. 281. 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 department shall, within the limits of available funds, provide technical assistance and support for the development of petroleum diesel fuels 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. 282. Section 25618 of the Public Resources Code is amended to read:

25618. (a) The 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 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 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. 283. Section 25620 of the Public Resources Code is amended to read:

25620. The Legislature hereby finds and declares all of the following:

(a) It is in the best interests of the people of this state that the quality of life of its citizens be improved by providing environmentally sound, safe, reliable, and affordable energy services and products.

(b) To improve the quality of life of this state's citizens, it is proper and appropriate for the state to undertake public interest energy research, development, and demonstration projects that are not adequately provided for by competitive and regulated energy markets.

(c) Public interest energy research, demonstration, and development projects should advance energy science or technologies of value to California citizens and should be consistent with the policies of this chapter.

(d) It is in the best interest of the people of California for the board and the department to positively contribute to the overall economic climate of the state within the roles and responsibilities of the board and the department as defined by statute, regulation, and other official government authority, including, but not limited to, providing economic benefits to California-based entities.

SEC. 284. Section 25620.1 of the Public Resources Code is amended to read:

25620.1. (a) The department shall develop, implement, and administer the Public Interest Research, Development, and

Demonstration Program that is hereby created. The program shall include a full range of research, development, and demonstration activities that, as determined by the board, are not adequately provided for by competitive and regulated markets. The department shall administer the program consistent with the policies of this chapter.

(b) The general goal of the program is to develop, and help bring to market, energy technologies that provide increased environmental benefits, greater system reliability, and lower system costs, and that provide tangible benefits to electric utility customers through the following investments:

(1) Advanced transportation technologies that reduce air pollution and greenhouse gas emissions beyond applicable standards, and that benefit electricity and natural gas ratepayers.

(2) Increased energy efficiency in buildings, appliances, lighting, and other applications beyond applicable standards, and that benefit electric utility customers.

(3) Advanced electricity generation technologies that exceed applicable standards to increase reductions in greenhouse gas emissions from electricity generation, and that benefit electric utility customers.

(4) Advanced electricity technologies that reduce or eliminate consumption of water or other finite resources, increase use of renewable energy resources, or improve transmission or distribution of electricity generated from renewable energy resources.

(c) To achieve the goals established in subdivision (b), the department shall adopt a portfolio approach for the program that does all of the following:

(1) Effectively balances the risks, benefits, and time horizons for various activities and investments that will provide tangible energy or environmental benefits for California electricity customers.

(2) Emphasizes innovative energy supply and end use technologies, focusing on their reliability, affordability, and environmental attributes.

(3) Includes projects that have the potential to enhance transmission and distribution capabilities.

(4) Includes projects that have the potential to enhance the reliability, peaking power, and storage capabilities of renewable energy.

(5) Demonstrates a balance of benefits to all sectors that contribute to the funding under Section 399.8 of the Public Utilities Code.

(6) Addresses key technical and scientific barriers.

(7) Demonstrates a balance between short-term, mid-term, and long-term potential.

(8) Ensures that prior, current, and future research not be unnecessarily duplicated.

(9) Provides for the future market utilization of projects funded through the program.

(10) Ensures an open project selection process and encourages the awarding of research funding for a diverse type of research as well as a diverse award recipient base and equally considers research proposals from the public and private sectors.

(11) Coordinates with other related research programs.

(d) The term "award," as used in this chapter, may include, but is not limited to, contracts, grants, interagency agreements, loans, and other financial agreements designed to fund public interest research, demonstration, and development projects or programs.

SEC. 285. Section 25620.2 of the Public Resources Code is amended to read:

25620.2. (a) To ensure the efficient implementation and administration of the Public Interest Research, Development, and Demonstration Program, the department shall do both of the following:

(1) Develop procedures for the solicitation of award applications for project or program funding, and to ensure efficient program management.

(2) Evaluate and select programs and projects, based on merit, that will be funded under the program.

(b) The department shall recommend and the board shall adopt regulations to implement the program, in accordance with the following procedures:

(1) Prepare a preliminary text of the proposed regulation and provide a copy of the preliminary text to any person requesting a copy.

(2) Provide public notice of the proposed regulation to any person who has requested notice of the regulations prepared by the department. The notice shall contain all of the following:

(A) A clear overview explaining the proposed regulation.

(B) Instructions on how to obtain a copy of the proposed regulations.

(C) A statement that if a public hearing is not scheduled for the purpose of reviewing a proposed regulation, any person may request, not later than 15 days prior to the close of the written comment period, a public hearing conducted in accordance with board procedures.

(3) Accept written public comments for 30 calendar days after providing the notice required in paragraph (2).

(4) Certify that all written comments were read and considered by the board.

(5) Place all written comments in a record that includes copies of any written factual support used in developing the proposed regulation, including written reports and copies of any transcripts or minutes in connection with any public hearings on the adoption of the regulation. The record shall be open to public inspection and available to the courts.

(6) Provide public notice of any substantial revision of the proposed regulation at least 15 days prior to the expiration of the deadline for public comments and comment period using the procedures provided in paragraph (2).

(7) Conduct public hearings before the board, if a hearing is requested by an interested party, that shall be conducted in accordance with board procedures.

(8) Adopt any proposed regulation at a regularly scheduled and noticed meeting of the board. The regulation shall become effective immediately unless otherwise provided by the board.

(9) Publish any adopted regulation in a manner that makes copies of the regulation easily available to the public. Any adopted regulation shall also be made available on the Internet. The department shall transmit a copy of an adopted regulation to the Office of Administrative Law for publication, or, if the board determines that printing the regulation is impractical, an appropriate reference as to where a copy of the regulation may be obtained.

(10) Notwithstanding any other provision of law, this subdivision provides an interim exception from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code for regulations required to implement Sections 25620.1 and 25620.2 that are adopted under the procedures specified in this subdivision.

(11) This subdivision shall become inoperative on January 1, 2012, unless a later enacted statute deletes or extends that date. However, after January 1, 2012, the board is not required to repeat any procedural step in adopting a regulation that has been completed before January 1, 2012, using the procedures specified in this subdivision.

SEC. 286. Section 25620.3 of the Public Resources Code is amended to read:

25620.3. (a) The department, by action of the board, may, consistent with the requirements of this chapter, provide awards to any individual or entity for planning, implementation, and administration of projects or programs selected pursuant to Section 25620.5.

(b) The department, by action of the board, may provide an award to a project or program that includes a group of related projects, or to a party who aggregates projects that directly benefit from the award.

(c) The department, by action of the board, may establish multiparty agreements. In a multiparty agreement, the department, by action of the board, may be a signatory to a common agreement among two or more parties. These agreements include, but are not limited to, cofunding, leveraged research, collaborations, and membership arrangements. If the department, by action of the board, enters into these agreements, it shall be a party to these agreements and may share in the roles, responsibilities, risks, investments, and results.

(d) The department, by action of the board, may issue awards that include the ability to make advance payments to prime contractors, to enable them to make advance payments to a subcontractor that is a federal agency, national laboratory, or state entity, on the condition that the subcontract is binding and enforceable and includes specific performance milestones.

(e) The department, by action of the board, may issue awards that include the ability to assign tasks on a work authorization basis.

(f) Prior to making any award pursuant to this chapter for a research, development, or demonstration program or project, the department shall identify the expected costs and any qualitative or quantitative benefits of the proposed program or project.

SEC. 287. Section 25620.4 of the Public Resources Code is amended to read:

25620.4. (a) To the extent that intellectual property is developed under this chapter, an equitable share of rights in the intellectual property or in the benefits derived therefrom shall accrue to the State of California.

(b) The department, by action of the board, may determine what share, if any, of the intellectual property, or the benefits derived therefrom, shall accrue to the state. The department may negotiate sharing mechanisms for intellectual property or benefits with award recipients.

SEC. 288. Section 25620.5 of the Public Resources Code is amended to read:

25620.5. (a) The department may solicit applications for awards, using a sealed competitive bid, competitive negotiation process, department-issued intradepartmental master agreement, the methods for selection of professional services firms set forth in Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, interagency agreement, single source, or sole source method. When scoring teams are convened to review and score proposals, the scoring teams may include persons not employed by the department, as long as employees of the state constitute no less than 50 percent of the membership of the scoring team. A person participating on a scoring team may not have any conflict of interest with respect to the proposal before the scoring team.

(b) A sealed bid method may be used when goods and services to be acquired can be described with sufficient specificity so that bids can be evaluated against specifications and criteria set forth in the solicitation for bids.

(c) The department may use a competitive negotiation process in any of the following circumstances:

(1) Whenever the desired award is not for a fixed price.

(2) Whenever project specifications cannot be drafted in sufficient detail so as to be applicable to a sealed competitive bid.

(3) Whenever there is a need to compare the different price, quality, and structural factors of the bids submitted.

(4) Whenever there is a need to afford bidders an opportunity to revise their proposals.

(5) Whenever oral or written discussions with bidders concerning the technical and price aspects of their proposals will provide better results to the state.

(6) Whenever the price of the award is not the determining factor.

(d) The department, by action of the board, may establish interagency agreements.

(e) The department, by action of the board, may provide awards on a single source basis by choosing from among two or more parties or by soliciting multiple applications from parties capable of supplying or providing similar goods or services. The cost to the state shall be reasonable and the department may only enter into a single source agreement with a particular party if the department, by action of the board, determines that it is in the state's best interests.

(f) The department, by action of the board, in accordance with subdivision (g) and in consultation with the Department of General Services, may provide awards on a sole source basis when the cost to the state is reasonable and the department, by action of the board, makes any of the following determinations:

(1) The proposal was unsolicited and meets the evaluation criteria of this chapter.

(2) The expertise, service, or product is unique.

(3) A competitive solicitation would frustrate obtaining necessary information, goods, or services in a timely manner.

(4) The award funds the next phase of a multiphased proposal and the existing agreement is being satisfactorily performed.

(5) When it is determined by the department to be in the best interests of the state.

(g) The department may not use a sole source basis for an award pursuant to subdivision (f), unless both of the following conditions are met:

(1) The board, at least 60 days prior to taking an action pursuant to subdivision (f), notifies the Joint Legislative Budget Committee and the relevant policy committees in both houses of the Legislature, in writing, of its intent to take the proposed action.

(2) The Joint Legislative Budget Committee either approves or does not disapprove the proposed action within 60 days from the date of notification required by paragraph (1).

(h) The department shall give priority to California-based entities in making awards pursuant to this chapter.

(i) The provisions of this section are severable. If any provision of this section or its application is held to be invalid, that invalidity does not affect other provisions or applications that can be given effect without the invalid provision or application.

For purposes of this Section and Section 25620, "California-based entity" means either of the following:

A corporation or other business form organized for the transaction of business that has its headquarters in California and manufactures in California the product that qualifies for the incentive or award, or a corporation or other business form organized for the transaction of business that has an office for the transaction of business in California and substantially manufactures in California the product that qualifies for the incentive or award, or substantially develops within California the research that qualifies for the incentive or award, as determined by the agency issuing the incentive or award.

SEC. 289. Section 25620.6 of the Public Resources Code is amended to read:

25620.6. The department, by action of the board and in consultation with the Department of General Services, may purchase insurance coverage necessary to implement an award. Funding for the purchase of insurance may be made from money in the Public Interest Research, Development, and Demonstration Fund created pursuant to Section 384 of the Public Utilities Code.

SEC. 290. Section 25620.7 of the Public Resources Code is amended to read:

25620.7. (a) The department, by action of the board, may contract for, or through interagency agreement obtain, technical, scientific, or administrative services or expertise from one or more entities, to support the program. Funding for this purpose shall be made from money in the Public Interest Research, Development, and Demonstration Fund.

(b) The department, by action of the board, may select the services or expertise described in subdivision (a), pursuant to Section 25620.5. In the event that contracts or interagency agreements have been made to multiple entities and their subcontractors for similar purposes, the commission may select from among those entities the particular expertise needed for a specified type of work. Selection of the particular expertise may be based solely on a review of qualifications, including the specific expertise required, availability of the expertise, or access to a resource of special relevance to the work, including, but not limited to, a database, model, technical facility, or a collaborative or institutional affiliation that will expedite the quality and performance of the work.

SEC. 291. Section 25620.8 of the Public Resources Code is amended to read:

25620.8. The department shall prepare and submit to the Legislature an annual report that is approved by the board, not later than March 31 of each year, on awards made pursuant to this chapter and progress toward achieving the goals set forth in Section 25620.1. The report shall include information on the names of award recipients, the amount of awards, and the types of projects funded, an evaluation of the success of funded projects, and recommendations for improvements in the program. The report shall set forth the actual costs of programs or projects funded by the department, the results achieved, and how the actual costs and results compare to the expected costs and benefits. The department shall establish procedures for protecting confidential or proprietary information and shall consult with all interested parties in the preparation of the annual report.

SEC. 292. Section 25620.11 of the Public Resources Code is amended to read:

25620.11. (a) The department shall regularly convene an advisory committee that shall make recommendations to guide the department's selection of programs and projects to be funded under this chapter. The advisory committee shall include as appropriate, but not be limited to, representatives from the Public Utilities Commission, consumer organizations, environmental organizations, and electrical corporations subject to the funding requirements of Section 381 of the Public Utilities Code.

(b) Three members of the Senate, appointed by the Senate President Pro Tempore, and three members of the Assembly, appointed by the Speaker of the Assembly, may meet with the advisory committee and participate in its activities to the extent that such participation is not incompatible with their respective positions as Members of the Legislature.

SEC. 293. Section 25630 of the Public Resources Code is amended to read:

25630. (a) The 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. 294. 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 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. 295. Section 25678 of the Public Resources Code is amended to read:

25678. The 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 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 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. 296. 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 department that is responsible for administration of the program.

SEC. 297. Section 25696 of the Public Resources Code is amended to read:

25696. The department may assist California-based energy technology and energy conservation firms to export their technologies, products, and services to international markets.

The 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. 298. 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 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 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. 299. Section 25697 of the Public Resources Code is amended to read:

25697. The 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. 300. Section 25700 of the Public Resources Code is amended to read:

25700. The 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. 301. 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 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 department shall encourage electric utilities to cooperate in joint preparation of an emergency load curtailment plan or emergency energy supply distribution plan. If this cooperative plan is developed between two or more electric utilities, the utilities may submit the joint plans to the department in place of individual plans required by subdivision (a) of this section.

(c) The 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. 302. Section 25702 of the Public Resources Code is amended to read:

25702. The 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, on or before January 6, 1975, the 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. 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 department and information provided at the hearing or hearings. 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. 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. 303. 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 department shall review and revise the recommended plans based on additional new capacity attributed to that facility. The 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. 304. Section 25704 of the Public Resources Code is amended to read:

25704. The 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. 305. Section 25705 of the Public Resources Code is amended to read:

25705. (a) If the 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 department shall authorize the construction and use of generating facilities under terms and conditions as specified by the department to protect the public interest.

(b) Within 60 days after the authorization of construction and use of the generating facilities, the 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 the generating facilities.

SEC. 306. Section 25720 of the Public Resources Code is amended to read:

25720. (a) By January 31, 2002, the 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 department shall consult with other state agencies, including, but not limited to, the State Air Resources Board.

(b) The 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 department estimates could be produced by the largest California refiner over a two week period. In making this examination and recommendation, the 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 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 department, but not longer than six weeks.

(d) The department shall evaluate reserve storage space from existing facilities.

(e) The 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 department and the State Air Resources Board, in consultation with the other state and local agencies the department deems necessary, shall develop and adopt recommendations for the Governor and the Legislature on a California Strategy to Reduce Petroleum Dependence.

(2) The strategy shall include a base case forecast by the 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. 307. Section 25721 of the Public Resources Code is amended to read:

25721. The 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 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 department shall request specific statutory authority and funding for establishment of a reserve.

SEC. 308. Section 25722 of the Public Resources Code is amended to read:

25722. (a) On or before January 31, 2003, the department, the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the department, the 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 department and the 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).

(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 department, the Department of General Services, and the State Air Resources Board, in consultation with any other state agency that the department, the 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. 309. 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 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. 310. 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 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 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. 311. 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 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) 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. 312. Section 25723 of the Public Resources Code is amended to read:

25723. On or before January 31, 2003, the department, in consultation with any other state agency that the 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 department shall make recommendations on all of the following items:

(a) Establishing a test procedure for measuring tire fuel efficiency.

(b) Development of a 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 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. 313. Section 25740.5 of the Public Resources Code is amended to read:

25740.5. (a) The 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 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 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 department, by action of the board. The department, by action of the board, may require financial disclosure from applicants for purposes of this paragraph.

(5) Specified fuel cell technologies, if the 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 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 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. 314. Section 25741 of the Public Resources Code is amended to read:

25741. As used in this chapter, the following terms have the following 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 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 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 Department of Energy 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 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 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. 315. Section 25742 of the Public Resources Code is amended to read:

25742. (a) Twenty percent of the funds collected pursuant to the renewable energy public goods charge shall be used for programs that are designed to achieve fully competitive and self-sustaining existing in-state renewable electricity generation facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide during the 2007–2011 investment cycle. Eligibility for production incentives under this section shall be limited to those technologies found eligible for funds by the department pursuant to paragraphs (3), (4), and (6) of subdivision (e) of Section 25740.5.

(b) Any funds used to support in-state renewable electricity generation facilities pursuant to this section shall be expended in accordance with the provisions of this chapter.

(c) Facilities that are eligible to receive funding pursuant to this section shall be registered in accordance with criteria developed by the department and those facilities shall not receive payments for any electricity produced that has any of the following characteristics:

(1) Is sold at monthly average rates equal to, or greater than, the applicable target price, as determined by the department, by action of the board.

(2) Is used onsite.

(d) (1) Existing facilities generating electricity from biomass energy shall be eligible for funding and otherwise considered an in-state renewable electricity generation facility only if they report to the department the types and quantities of biomass fuels used.

(2) The department shall report the types and quantities of biomass fuels used by each facility to the Legislature in the reports prepared pursuant to Section 25748 and approved by the board.

(e) Each existing facility seeking an award pursuant to this section shall be evaluated by the department to determine the amount of the funds being sought, the cumulative amount of funds the facility has received previously from the department and other state sources, the value of any past and current federal or state tax credits, the facility's contract price for energy and capacity, the prices received by similar facilities, the market value of the facility, and the likelihood that the award will make the facility competitive and self-sustaining within the 2007–2011 investment cycle. The department shall use this evaluation to determine the value of an award to the public relative to other renewable energy investment alternatives. The department shall compile its findings and report them to the Legislature in the reports prepared pursuant to Section 25748 and approved by the board.

SEC. 316. Section 25743 of the Public Resources Code is amended to read:

25743. (a) The department, by action of the board, shall terminate all production incentives awarded from the New Renewable Resources Account prior to January 1, 2002, unless the project began generating electricity by January 1, 2007.

(b) (1) The department, by action of the board, shall, by March 1, 2008, transfer to electrical corporations serving customers subject to the renewable energy public goods charge the remaining unencumbered funds in the New Renewable Resources Account.

(2) The Public Utilities Commission shall ensure that each electrical corporation allocates funds received from the department pursuant to paragraph (1) in a manner that maximizes the economic benefit to all customer classes that funded the New Renewable Resources Account.

SEC. 317. Section 25744 of the Public Resources Code is amended to read:

25744. (a) Seventy-nine percent of the money collected pursuant to the renewable energy public goods charge shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.

(b) Funds used for emerging technologies pursuant to this section shall be expended in accordance with this chapter, subject to all of the following requirements:

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

(2) The program shall provide monetary rebates, buydowns, or equivalent incentives, subject to paragraph (3), to purchasers, lessees, lessors, or sellers of eligible electricity generating systems. Incentives shall benefit the end-use consumer of renewable generation by directly and exclusively reducing the purchase or lease cost of the eligible system, or the cost of electricity produced by the eligible system. Incentives shall be issued on the basis of the rated electrical generating capacity of the system measured in watts, or the amount of electricity production of the system, measured in kilowatthours. Incentives shall be limited to a maximum percentage of the system price, as determined by the board. The department, by action of the board, may establish different incentive levels for systems based on technology type and system size, and may provide different incentive levels for systems used in conjunction with energy-efficiency measures.

(3) Eligible distributed emerging technologies are fuel cell technologies that utilize renewable fuels, including fuel cell technologies with an emission profile equivalent or better than the State Air Resources Board 2007 standard, and that serve as backup generation for emergency, safety, or telecommunications systems. Eligible renewable fuels may include wind turbines of not more than 50 kilowatts rated electrical generating capacity per customer site and other distributed renewable emerging technologies that meet the emerging technology eligibility criteria established by the board and are not eligible for rebates, buydowns, or similar incentives from any other department or Public Utilities Commission program. Eligible electricity generating systems are intended primarily to offset part or all of the consumer's own

electricity demand, including systems that are used as backup power for emergency, safety, or telecommunications, and shall not be owned by local publicly owned electric utilities, nor be located at a customer site that is not receiving distribution service from an electrical corporation that is subject to the renewable energy public goods charge and contributing funds to support programs under this chapter. All eligible electricity generating system components shall be new and unused, shall not have been previously placed in service in any other location or for any other application, and shall have a warranty of not less than five years to protect against defects and undue degradation of electrical generation output. Systems and their fuel resources shall be located on the same premises of the end-use consumer where the consumer's own electricity demand is located, and all eligible electricity generating systems shall be connected to the utility grid, unless the system purpose is for backup generation used in emergency, safety, or telecommunications in California. The department, by action of the board, may require eligible electricity generating systems to have meters in place to monitor and measure a system's performance and generation. Only systems that will be operated in compliance with applicable law and the rules of the Public Utilities Commission shall be eligible for funding.

(4) The department, by action of the board, shall limit the amount of funds available for a system or project of multiple systems and reduce the level of funding for a system or project of multiple systems that has received, or may be eligible to receive, any government or utility funds, incentives, or credit.

(5) In awarding funding, the department, by action of the board, may provide preference to systems that provide tangible demonstrable benefits to communities with a plurality of minority or low-income populations.

(6) In awarding funding, the department, by action of the board, shall develop and implement eligibility criteria and a system that provides preference to systems based upon system performance, taking into account factors, including shading, insulation levels, and installation orientation.

(7) At least once annually, the department shall publish and make available to the public the balance of funds available for emerging renewable energy resources for rebates, buydowns, and other incentives for the purchase of these resources.

(c) Notwithstanding Section 27540.5, the department, by action of the board, may expend, until December 31, 2008, up to sixty million dollars ($60,000,000) of the funding allocated to the Renewable Resources Trust Fund for the program established in this section, subject to the repayment requirements of subdivision (f) of Section 25751.

(d) Funds for photovoltaic or solar thermal electric technologies shall be awarded in compliance with Chapter 8.8 (commencing with Section 25780), and not with this section.

SEC. 318. Section 25744.5 of the Public Resources Code is amended to read:

25744.5. The department, by action of the board, shall allocate and use funding available for emerging renewable technologies pursuant to Section 25744 and Section 25751 to fund photovoltaic and solar thermal electric technologies in accordance with eligibility criteria and conditions established pursuant to Chapter 8.8 (commencing with Section 25780).

SEC. 319. Section 25747 of the Public Resources Code is amended to read:

25747. (a) The department, by action of the board, shall adopt guidelines governing the funding programs authorized under this chapter, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines may not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this subdivision may not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter or Section 399.13 of the Public Utilities Code, 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. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001–02 Regular Session are declaratory of, and not a change in existing law.

(b) Funds to further the purposes of this chapter may be committed for multiple years.

(c) Awards made pursuant to this chapter are grants, subject to appeal to the board upon a showing that factors other than those described in the guidelines adopted by the board were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and registered to receive, payments or awards, including satisfying conditions specified by the board, shall not constitute the rendering of goods, services, or a direct benefit to the department of the board.

(d) An award made pursuant to this chapter, the amount of the award, and the terms and conditions of the grant are public information.

SEC. 320. Section 25748 of the Public Resources Code is amended to read:

25748. (a) The department, by action of the board, shall report to the Legislature on or before November 1, 2007, and annually thereafter, regarding the results of the mechanisms funded pursuant to this chapter. The report shall contain all of the following:

(1) A description of the allocation of funds among existing, new, and emerging technologies, the allocation of funds among programs, including consumer-side incentives, and the need for the reallocation of money among those technologies.

(2) The status of account transfers and repayments.

(3) A description of the cumulative commitment of claims by account, the relative demand for funds by account, and a forecast of future awards.

(4) A list identifying the types and quantities of biomass fuels used by facilities receiving funds pursuant to Section 25742 and their impacts on improving air quality.

(5) A discussion of the progress being made toward achieving the targets established under Section 25740 by each funding category authorized pursuant to this chapter.

(6) A description of the allocation of funds from interest on the accounts described in this chapter, and money in the accounts described in subdivision (b) of Section 25751.

(7) An itemized list, including project descriptions, award amounts, and outcomes for projects awarded funding in the prior year.

(8) Other matters the department determines may be of importance to the Legislature.

(b) Money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report and with the latest report provided to the Legislature pursuant to this section, except that reallocations shall not increase the allocation established in Section 25742.

SEC. 321. Section 25751 of the Public Resources Code is amended to read:

25751. (a) The Renewable Resource Trust Fund is hereby created in the State Treasury.

(b) The following accounts are hereby established within the Renewable Resource Trust Fund:

(1) Existing Renewable Resources Account.

(2) Emerging Renewable Resources Account.

(3) Renewable Resources Consumer Education Account.

(c) The money in the fund may be expended, only upon appropriation by the Legislature in the annual Budget Act, for the following purposes:

(1) The administration of this article by the state.

(2) The state's expenditures associated with the accounting system established by the board pursuant to subdivision (b) of Section 399.13 of the Public Utilities Code.

(d) That portion of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies, pursuant to Section 399.8 of the Public Utilities Code, shall be transmitted to the department at least quarterly for deposit in the Renewable Resource Trust Fund pursuant to Section 25740.5. After setting aside in the fund money that may be needed for expenditures authorized by the annual Budget Act in accordance with subdivision (c), the Treasurer shall immediately deposit money received pursuant to this section into the accounts created pursuant to subdivision (b) in proportions designated by the department for the current calendar year. Notwithstanding Section 13340 of the Government Code, the money in the fund and the accounts within the fund are hereby continuously appropriated to the department without regard to fiscal year for the purposes enumerated in this chapter.

(e) Upon notification by the department, the Controller shall pay all awards of the money in the accounts created pursuant to subdivision (b) for purposes enumerated in this chapter. The eligibility of each award shall be determined solely by the department, by action of the board, based on the procedures it adopts under this chapter. Based on the eligibility of each award, the department shall also establish the need for a multiyear commitment to any particular award and so advise the Department of Finance. Eligible awards submitted by the department to the Controller shall be accompanied by information specifying the account from which payment should be made and the amount of each payment; a summary description of how payment of the award furthers the purposes enumerated in this chapter; and an accounting of future costs associated with any award or group of awards known to the department to represent a portion of a multiyear funding commitment.

(f) The department may transfer funds between accounts for cashflow purposes, provided that the balance due each account is restored and the transfer does not adversely affect any of the accounts.

(g) The Department of Finance shall conduct an independent audit of the Renewable Resource Trust Fund and its related accounts annually, and provide an audit report to the Legislature not later than March 1 of each year for which this article is operative. The Department of Finance's report shall include 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. 322. Section 25770 of the Public Resources Code is amended to read:

25770. For the purposes of this chapter, the following terms have the following meanings:

(a) "Consumer information requirement" means point-of-sale information or signs that are conspicuously displayed, readily accessible, and written in a manner that can be easily understood by the consumer. "Consumer information requirement" does not include mandatory labeling, imprinting, or other marking, on an individual tire by the tire manufacturer or the tire retailer.

(b) "Cost effective" means the cost savings to the consumer resulting from a replacement tire subject to an energy efficiency standard that equals or exceeds the additional cost to the consumer resulting from the standard, taking into account the expected fuel cost savings over the expected life of the replacement tire.

(c) "Replacement tire" means a tire sold in the state that is designed to replace a tire sold with a new passenger car or light-duty truck. “Replacement tire” does not include any of the following tires:

(1) A tire or group of tires with the same SKU, plant, and year, for which the volume of tires produced or imported is less than 15,000 annually.

(2) A deep tread, winter-type snow tire, a space-saver tire, or a temporary use spare tire.

(3) A tire with a nominal rim diameter of 12 inches or less.

(4) A motorcycle tire.

(5) A tire manufactured specifically for use in an off-road motorized recreational vehicle.

SEC. 323. Section 25771 of the Public Resources Code is amended to read:

25771. On or before July 1, 2006, the 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 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 department the energy efficiency of replacement tires sold in the state.

SEC. 324. Section 25772 of the Public Resources Code is amended to read:

25772. On or before July 1, 2007, the department by action of the board and in consultation with the Department of Resources Recovery and Recycling, 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. 325. 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 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 department, an onroad fleet testing program developed by tire manufacturers in consultation with the department and the Department of Resources Recovery and Recycling, conducted by tire manufacturers, and submitted to the department on or before January 1, 2006.

(c) If the 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 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 department, by action of the board, in consultation with the Department of Resources Recovery and Recycling, 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 department may not revise the program or standards in a way that reduces the average efficiency of replacement tires.

SEC. 326. Section 25782 of the Public Resources Code is amended to read:

25782. (a) The 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 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 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 department, by the action of the board shall set rating standards for equipment, components, and systems to 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), a ratepayer funded incentives shall not be made for a solar energy system that fails to meet the eligibility criteria.

SEC. 327. Section 25783 of the Public Resources Code is amended to read:

25783. The 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 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 department shall annually conduct random audits of solar energy systems to evaluate their operational performance.

SEC. 328. Section 25784 of the Public Resources Code is amended to read:

25784. The 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 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. 329. Section 25802 of the Public Resources Code is amended to read:

25802. (a) A person who submits to the 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. The fee shall only be paid on one of the alternate proposed facility sites that has the highest electrical designed capacity. In no event shall the fee be less than one thousand dollars ($1,000) nor more than twenty-five thousand dollars ($25,000).

(b) For any other facility, the notice shall be accompanied by a fee of five thousand dollars ($5,000). The fee shall only be paid on one of the alternate proposed facility sites.

SEC. 330. Section 25803 of the Public Resources Code is amended to read:

25803. Funds received by the 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. 331. Section 25806 of the Public Resources Code is amended to read:

25806. (a) A person who submits to the department an application for certification by the board for a proposed generating facility shall submit with the application a fee of one hundred thousand dollars ($100,000) plus two hundred fifty dollars ($250) per megawatt of gross generating capacity of the proposed facility. The total fee accompanying an application may not exceed three hundred fifty thousand dollars ($350,000).

(b) A person who receives certification of a proposed generating facility shall pay an annual fee of fifteen thousand dollars ($15,000). The first payment of the annual fee is due on the date this section takes effect. For a facility certified on or after the effective date of this section, the first payment of the annual fee is due on the date the board adopts the final decision. All subsequent payments are due by July 1 of each year in which the facility retains its certification. The fiscal year for the annual fee is July 1 to June 30, inclusive.

(c) The fees in subdivisions (a) and (b) shall be adjusted annually to reflect the percentage change in the Implicit Price Deflator for State and Local Government Purchases of Goods and Services, as published by the United States Department of Commerce.

(d) A fee is not required to accompany an application for certification, and an annual fee is not required thereafter, for a generating facility that uses a renewable resource as its primary fuel or power source. For purposes of this subdivision, a renewable resource includes, but is not limited to, biomass, solar thermal, geothermal, digester gas, municipal solid waste conversion, landfill gas, ocean thermal, and solid waste converted to a clean burning fuel by using a noncombustion thermal process.

(e) The Energy Facility License and Compliance Fund is hereby created in the State Treasury. All fees received by the department pursuant to this section shall be remitted to the Treasurer for deposit in the fund. The money in the fund shall be expended, upon appropriation by the Legislature, for processing applications for certification and for compliance monitoring.

SEC. 332. Section 25900 of the Public Resources Code is amended to read:

25900. Except as provided in Section 25531, whenever the department, by the action of the board, finds that any provision of this division is violated or a violation is threatening to take place that constitutes an emergency requiring immediate action to protect the public health, welfare, or safety, the Attorney General, upon request of the department or the board, shall petition a court to enjoin the violation. The court shall have jurisdiction to grant prohibitory or mandatory injunctive relief as may be warranted by way of temporary restraining order, preliminary injunction, and permanent injunction.

SEC. 333. Section 25901 of the Public Resources Code is amended to read:

25901. (a) Within 30 days after the 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 of the determination. Failure to file 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 department or the board shall be sustained by the court unless the court finds (1) that the department or the board proceeded without, or in excess of its jurisdiction, (2) that, based exclusively upon a review of the record before the department or the board, the decision is not supported by substantial evidence in light of the whole record, or (3) that the 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. 334. Section 25902 of the Public Resources Code is amended to read:

25902. Any evaluations in the reports required by Section 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 department or the board and a court action may not be brought to review the evaluation, finding, or determination.

SEC. 335. Section 25910 of the Public Resources Code is amended to read:

25910. The department shall, by regulation adopted 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. 336. Section 25911 of the Public Resources Code is amended to read:

25911. The 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 board to prohibit the sale and installation of urea formaldehyde foam insulation shall be based upon a record of scientific evidence that demonstrates the need for the prohibition in order to protect the public health and safety.

SEC. 337. Section 25912 of the Public Resources Code is amended to read:

25912. Prior to the board adopting any regulation that causes a prohibition on the sale and installation of urea formaldehyde foam insulation, the 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. 338. Section 25942 of the Public Resources Code is amended to read:

25942. (a) On or before July 1, 1995, the 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 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 a certification program is available, by the 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 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 department.

(e) Beginning with the 1998 biennial energy conservation report required by Section 25401.1, the 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. 339. Section 25943 of the Public Resources Code is amended to read:

25943. (a) (1) By March 1, 2010, the department, by action of the board, shall establish a regulatory proceeding to develop and implement a comprehensive program to achieve greater energy savings in California's existing residential and nonresidential building stock. This program shall comprise a complementary portfolio of techniques, applications, and practices that will achieve greater energy efficiency in existing residential and nonresidential structures that fall significantly below the current standards in Title 24 of the California Code of Regulations, as determined by the department.

(2) The comprehensive program may include, but need not be limited to, a broad range of energy assessments, building benchmarking, energy rating, cost-effective energy efficiency improvements, public and private sector energy efficiency financing options, public outreach and education efforts, and green workforce training.

(b) To develop and implement the program specified in subdivision (a), the department shall do both of the following:

(1) Coordinate with the Public Utilities Commission and consult with representatives from the Department of Real Estate, the Department of Housing and Community Development, investor-owned and publicly owned utilities, local governments, real estate licensees, commercial and home builders, commercial property owners, small businesses, mortgage lenders, financial institutions, home appraisers, inspectors, energy rating organizations, consumer groups, environmental and environmental justice groups, and other entities the board deems appropriate.

(2) Hold at least three public hearings in geographically diverse locations throughout the state.

(c) In developing the requirements for the program specified in subdivision (a), the board shall consider all of the following:

(1) The amount of annual and peak energy savings, greenhouse gas emission reductions, and projected customer utility bill savings that will accrue from the program.

(2) The most cost-effective means and reasonable timeframes to achieve the goals of the program.

(3) The various climatic zones within the state.

(4) An appropriate method to inform and educate the public about the need for, benefits of, and environmental impacts of, the comprehensive energy efficiency program.

(5) The most effective way to report the energy assessment results and the corresponding energy efficiency improvements to the owner of the residential or nonresidential building, including, among other things, the following:

(A) Prioritizing the identified energy efficiency improvements.

(B) The payback period or cost-effectiveness of each improvement identified.

(C) The various incentives, loans, grants, and rebates offered to finance the improvements.

(D) Available financing options including all of the following:

(i) Mortgages or sales agreement components.

(ii) On-bill financing.

(iii) Contractual property tax assessments.

(iv) Home warranties.

(6) Existing statutory and regulatory requirements to achieve energy efficiency savings and greenhouse gas emission reductions.

(7) A broad range of implementation approaches, including both utility and nonutility administration of energy efficiency programs.

(8) Any other considerations deemed appropriate by the board.

(d) The program developed pursuant to this section shall do all of the following:

(1) Minimize the overall costs of establishing and implementing the comprehensive energy efficiency program requirements.

(2) Ensure, for residential buildings, that the energy efficiency assessments, ratings, or improvements do not unreasonably or unnecessarily affect the home purchasing process or the ability of individuals to rent housing. A transfer of property subject to the program implemented pursuant to this section shall not be invalidated solely because of the failure of a person to comply with a provision of the program.

(3) Ensure, for nonresidential buildings, that the energy improvements do not have an undue economic impact on California businesses.

(4) Determine, for residential buildings, the appropriateness of the Home Energy Rating System (HERS) program to support the goals of this section and whether there are a sufficient number of HERS-certified raters available to meet the program requirements.

(5) Determine, for nonresidential structures, the availability of an appropriate cost-effective energy efficiency assessment system and whether there are a sufficient number of certified raters or auditors available to meet the program requirements.

(6) Coordinate with the California Workforce Investment Board, the Employment Training Panel, the California Community Colleges, and other entities to ensure a qualified, well-trained workforce is available to implement the program requirements.

(7) Coordinate with, and avoid duplication of, existing proceedings of the Public Utilities Commission and programs administered by utilities.

(e) A home energy rating or energy assessment service does not meet the requirements of this section unless the service has been certified by the board to be in compliance with the program criteria developed pursuant to this section and is in conformity with other applicable elements of the program.

(f) The department, by action of the board, shall periodically update the criteria and adopt any revision that, in its judgment, is necessary to improve or refine program requirements after receiving public input.

(g) Before implementing an element of the program developed pursuant to subdivision (a) that requires the expansion of statutory authority of the department or the Public Utilities Commission, the department and the Public Utilities Commission shall obtain legislative approval for the expansion of their authorities.

(h) The department shall report on the status of the program in the integrated energy policy report pursuant to Section 25302.

(i) The department shall fund activities undertaken pursuant to this section from the Federal Trust Fund consistent with the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) or other sources of nonstate funds available to the department for the purposes of this section.

(j) For purposes of this section, "energy assessment" means a determination of an energy user's energy consumption level, relative efficiency compared to other users, and opportunities to achieve greater efficiency or improve energy resource utilization.

SEC. 340. Section 25960 of the Public Resources Code is amended to read:

25960. 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 board. This prohibition shall become operative 24 months after an intermittent ignition device has been demonstrated and certified by the board as an alternate means. The 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. 341. Section 25961 of the Public Resources Code is amended to read:

25961. The 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 board, the specifications for certification of intermittent ignition devices 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. 342. 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 board, the 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. 343. Section 25963 of the Public Resources Code is amended to read:

25963. The 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. 344. 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 board, 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 board, unless the board otherwise permits this action. Beginning 24 months after an intermittent ignition device has been certified by the 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 the building permit shows that the gas appliance complies with this chapter. However, any new gas appliance 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. 345. 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 board, the 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. 346. Section 25967 of the Public Resources Code is amended to read:

25967. (a) Any person who violates 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 department or the board, the court shall determine the reasonable expenses incurred by the department or the board in the investigation and prosecution of the action.

(d) Before any penalty collected is paid out pursuant to subdivision (b), the amount of such reasonable expenses incurred by the department or the board shall be paid to the State Treasurer.

SEC. 347. Section 25968 of the Public Resources Code is amended to read:

25968. Any inspector appointed or authorized by the department or the board shall have access to the premises, equipment, materials, partly finished and finished articles, and records of any person subject to this chapter.

SEC. 348. 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 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. 349. Section 26011.5 of the Public Resources Code is amended to read:

26011.5. The authority, in consultation with the 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. 350. 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 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 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. 351. Section 30404 of the Public Resources Code is amended to read:

30404. (a) The commission shall periodically, in the case of the 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. 352. 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. 353. Article 2 (commencing with Section 334) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

SEC. 354. 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. 355. 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. 356. Section 346 of the Public Utilities Code is repealed.

SEC. 357. 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, at the times as 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. 358. Section 350 of the Public Utilities Code is repealed.

SEC. 359. Section 352 of the Public Utilities Code is amended to read:

352. The Independent System Operator shall 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.

SEC. 360. Section 360 of the Public Utilities Code is repealed.

SEC. 361. Section 365 of the Public Utilities Code is repealed.

SEC. 362. Section 384 of the Public Utilities Code is amended to read:

384. (a) Funds transferred to the 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 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. 363. 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 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 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 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. 364. 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 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 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 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 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 Department of Energy may verify the veracity of environmental claims made by retail suppliers.

SEC. 365. 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 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. 366. 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 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 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. 367. 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 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 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. 368. 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 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 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. This paragraph 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. 369. 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 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. 370. Section 399.13 of the Public Utilities Code is amended to read:

399.13. The 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 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 Department of Energy shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the 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 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 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. 371. 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) This section 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 Department of Energy in calculating market prices under subdivision (c) and establishing other renewables portfolio standard policies.

SEC. 372. 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 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) 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) 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) 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. 373. 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 Department of Energy, by action of the California Energy Board, pursuant to subdivision (b) of Section 399.13.

(3) The 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. 374. 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. 375. 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 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) 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. This section does not expand, modify, or limit the 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 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 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. 376. 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 Office of Energy Market Oversight 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) 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. 377. 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 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, 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 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 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; 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, this subdivision 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 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 pursuant to that division.

SEC. 378. 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 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. This subdivision does not require the department to approve or adopt any electricity demand model or forecast.

(b) 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) 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 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. 379. Section 2774.6 of the Public Utilities Code is amended to read:

2774.6. The commission, in consultation with the 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. 380. 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 Department of Energy, 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 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 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 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. 380. Section 2827 of the Public Utilities Code, as amended by Chapter 6 of the Statutes of 2010, 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 customer, small commercial customer as defined in subdivision (h) of Section 331, or 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 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) An electrical corporation shall include a provision in the net energy metering contract or tariff requiring that any customer with an existing electrical generating facility and meter who enters into a new net energy metering contract shall provide an inspection report to the electrical corporation, unless the electrical generating facility and meter have been installed or inspected within the previous three years. The inspection report shall be prepared by a California licensed contractor who is not the owner or operator of the facility and meter. A California licensed electrician shall perform the inspection of the electrical portion of the facility and meter.

(3) (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 (4), an electric utility is not obligated to provide net energy metering to additional eligible customer-generators in its service area.

(4) 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 5 percent of the aggregate customer peak demand of those electric utilities.

(5) By January 1, 2010, the commission, in consultation with the ~~Energy Commission~~ *Department of Energy*, 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 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 governmental 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 electrical 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 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 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. 381. Division 1.5 (commencing with Section 3300) of the Public Utilities Code is repealed.

SEC. 382. 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 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. 383. 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.

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