

AMENDED IN ASSEMBLY APRIL 26, 2010

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, 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, and 16367.8 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 and Development~~ 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 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 transfer certain authority and duties of the former Electricity Oversight Board 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)–~~

(2) 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)–~~

(3) 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)–~~

(4) 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.

(5) 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 delete obsolete provisions.

(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:

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

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

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

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

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

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

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

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

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

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

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

6 14074. The agency shall enter into an agreement with the
7 Department of Energy to assist small business owners in reducing
8 their energy costs through low interest loans and by providing
9 assistance and information.

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

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

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

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

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

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

26 32942. Loans shall be approved according to criteria established
27 by a credit committee, chaired by the chief financial officer of the
28 corporation or that officer's designee. The other members of the
29 committee shall be the member of the board appointed by the
30 Department of Energy and the corporate president.

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

33 9100. The Department of Energy shall implement a revolving
34 loan fund program to assist low-income fishing fleet operators
35 reduce their energy costs and conserve fuel by providing
36 low-interest loans to those operators.

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

39 9101. Commencing January 1, 1994, and thereafter biennially,
40 the Department of Energy shall report to the Legislature on the

1 status of the loan program, including the number and the amounts
2 of loans made, the amount of loans repaid, and a comparison of
3 the ethnic background of the loan recipients with the ethnic
4 background of the low-income fishing fleet operators.

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

7 11041. (a) Sections 11042 and 11043 do not apply to the
8 Regents of the University of California, the Trustees of the
9 California State University, Legal Division of the Department of
10 Transportation, Division of Labor Standards Enforcement of the
11 Department of Industrial Relations, Workers' Compensation
12 Appeals Board, Public Utilities Commission, Department of
13 Energy, State Compensation Insurance Fund, Legislative Counsel
14 Bureau, Inheritance Tax Department, Secretary of State, State
15 Lands Commission, Alcoholic Beverage Control Appeals Board
16 (except when the board affirms the decision of the Department of
17 Alcoholic Beverage Control), State Department of Education, and
18 Treasurer with respect to bonds, nor to any other state agency
19 which, by law enacted after Chapter 213 of the Statutes of 1933,
20 is authorized to employ legal counsel.

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

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

25 11550. (a) Effective January 1, 1988, an annual salary of
26 ninety-one thousand fifty-four dollars (\$91,054) shall be paid to
27 each of the following:

- 28 (1) Director of Finance.
- 29 (2) Secretary of Business, Transportation and Housing.
- 30 (3) Secretary of the Resources Agency.
- 31 (4) Secretary of California Health and Human Services.
- 32 (5) Secretary of State and Consumer Services.
- 33 (6) Commissioner of the California Highway Patrol.
- 34 (7) Secretary of the Department of Corrections and
35 Rehabilitation.
- 36 (8) Secretary of Food and Agriculture.
- 37 (9) Secretary of Veterans Affairs.
- 38 (10) Secretary of Labor and Workforce Development.
- 39 (11) State Chief Information Officer.
- 40 (12) Secretary for Environmental Protection.

1 (13) Secretary of California Emergency Management.

2 (14) Secretary of Energy.

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

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

11 11553. (a) Effective January 1, 1988, an annual salary of
12 eighty-one thousand six hundred thirty-five dollars (\$81,635) shall
13 be paid to each of the following:

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

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

16 (3) President of the Public Utilities Commission.

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

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

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

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

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

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

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

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

33 11553.5. (a) Effective January 1, 1988, an annual salary of
34 seventy-nine thousand one hundred twenty-two dollars (\$79,122)
35 shall be paid to the following:

36 (1) Member of the Agricultural Labor Relations Board.

37 (2) Member of the California Energy Board.

38 (3) Member of the Public Utilities Commission.

39 (4) Member of the Public Employment Relations Board.

40 (5) Member of the Unemployment Insurance Appeals Board.

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

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

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

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

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

13 ~~12730. For the purposes of this chapter, the following~~
14 ~~definitions apply:~~

15 (a) ~~"Community Services Block Grant" refers to the federal~~
16 ~~funds and program established by the federal Community Services~~
17 ~~Block Grant Program in the Omnibus Budget Reconciliation Act~~
18 ~~of 1981, as contained in Public Law 97-35, as that law has been~~
19 ~~amended from time to time and as currently codified as Section~~
20 ~~9901 et seq. of Title 42 of the United States Code.~~

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

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

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

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

37 (f) ~~"Designation" means the formal selection of a proposed~~
38 ~~community action agency by the director, as provided in Section~~
39 ~~12750.1.~~

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

6 (h) “Eligible beneficiaries” means all of the following:

7 (1) All individuals living in households with incomes not to
8 exceed the official poverty line according to the poverty guidelines
9 updated periodically in the Federal Register by the United States
10 Department of Health and Human Services, as defined in Section
11 9902 of Title 42 of the United States Code, as amended.

12 (2) All individuals eligible to receive Temporary Assistance for
13 Needy Families under the state’s plan approved under Public Law
14 104-193, the Personal Responsibility and Work Opportunity
15 Reconciliation Act of 1996, and (Chapter 2 (commencing with
16 Section 11200) of Part 3 of Division 9 of the Welfare and
17 Institutions Code) or assistance under Part A of Title IV of the
18 Social Security Act (42 U.S.C. Sec. 601 et seq.).

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

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

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

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

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

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

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

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

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

17 ~~(o) This section shall remain in effect only until January 1,~~
18 ~~2013, and as of that date is repealed, unless a later enacted statute,~~
19 ~~that is enacted before January 1, 2013, deletes or extends that date.~~

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

22 ~~12730. For the purposes of this chapter, the following~~
23 ~~definitions apply:~~

24 ~~(a) “Community Services Block Grant” refers to the federal~~
25 ~~funds and program established by the federal Community Services~~
26 ~~Block Grant Program in the Omnibus Budget Reconciliation Act~~
27 ~~of 1981, as contained in Public Law 97-35, as that law has been~~
28 ~~amended from time to time and as currently codified as Section~~
29 ~~9901 et seq. of Title 42 of the United States Code.~~

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

37 ~~(c) “Director” means the person who is delegated signatory~~
38 ~~authority for the Community Service Block Grant by the Governor~~
39 ~~as reflected in the California Community Services Block Grant~~
40 ~~State Plan.~~

1 ~~(d) “Delegate agency” or “subcontractor” means a private~~
2 ~~nonprofit organization or public agency that operates one or more~~
3 ~~projects funded under this chapter pursuant to a contractual~~
4 ~~agreement with an eligible entity.~~

5 ~~(e) “Department” means the Department of Energy established~~
6 ~~pursuant to Section 25200 of the Public Resources Code.~~

7 ~~(f) “Designation” means the formal selection of a proposed~~
8 ~~community action agency by the director, as provided in Section~~
9 ~~12750.1.~~

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

15 ~~(h) “Eligible beneficiaries” means all of the following:~~

16 ~~(1) All individuals living in households with incomes not to~~
17 ~~exceed the official poverty line according to the poverty guidelines~~
18 ~~updated periodically in the Federal Register by the United States~~
19 ~~Department of Health and Human Services, as defined in Section~~
20 ~~9902 of Title 42 of the United States Code, as amended.~~

21 ~~(2) All individuals eligible to receive Temporary Assistance for~~
22 ~~Needy Families under the state’s plan approved under Public Law~~
23 ~~104-193, the Personal Responsibility and Work Opportunity~~
24 ~~Reconciliation Act of 1996, and (Chapter 2 (commencing with~~
25 ~~Section 11200) of Part 3 of Division 9 of the Welfare and~~
26 ~~Institutions Code) or assistance under Part A of Title IV of the~~
27 ~~Social Security Act (42 U.S.C. Sec. 601 et seq.).~~

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

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

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

37 ~~(1) In any county that, prior to October 1, 1981, had more than~~
38 ~~one designated community action agency, each unit of local~~
39 ~~government that contained a designated community action agency~~

1 shall continue to operate as a “political subdivision” under this
2 chapter.

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

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

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

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

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

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

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

29 12802.5. The Governor may, with respect to the Resources
30 Agency, appoint a Deputy Secretary for Energy Matters who may
31 serve as Secretary of the Natural Resources designee on the
32 California Energy Board and an Assistant Secretary for Coastal
33 Matters who may serve as Secretary of the Natural Resources
34 designee on the State Coastal Commission.

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

37 12805. (a) The Resources Agency is hereby renamed the
38 Natural Resources Agency. The Natural Resources Agency consists
39 of the departments of Forestry and Fire Protection, Conservation,
40 Fish and Game, Boating and Waterways, Parks and Recreation,

1 Resources Recycling and Recovery, and Water Resources; the
2 State Lands Commission; the Colorado River Board; the San
3 Francisco Bay Conservation and Development Commission; the
4 Central Valley Flood Protection Board; the Wildlife Conservation
5 Board; the Delta Protection Commission; the Native American
6 Heritage Commission; the California Conservation Corps; the
7 California Coastal Commission; the State Coastal Conservancy;
8 the California Tahoe Conservancy; the Santa Monica Mountains
9 Conservancy; the Coachella Valley Mountains Conservancy; the
10 San Joaquin River Conservancy; the San Gabriel and Lower Los
11 Angeles Rivers and Mountains Conservancy; the Baldwin Hills
12 Conservancy; the San Diego River Conservancy; and the Sierra
13 Nevada Conservancy.

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

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

20 14450. The department, in preparing its research and
21 development program, shall consult with other parts of the
22 transportation industry, including the private and public sectors,
23 in order to obtain maximum input designed to develop a balanced
24 multimodal research and development program. The department
25 shall also consult with affected state agencies, including the
26 Department of Motor Vehicles, the State Air Resources Board,
27 and the Department of the California Highway Patrol.

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

30 14684. (a) The department, in consultation with the
31 Department of Energy, shall ensure that solar energy equipment
32 is installed, no later than January 1, 2007, on all state buildings
33 and state parking facilities, where feasible. The department shall
34 establish a schedule designating when solar energy equipment will
35 be installed on each building and facility, with priority given to
36 buildings and facilities where installation is most feasible, both
37 for state building and facility use and consumption and local
38 publicly owned electric utility use, where feasible.

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

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

7 (d) This section does not exempt the state from any applicable
8 fee or requirement imposed by the Public Utilities Commission.

9 (e) The department may adopt regulations for the purposes of
10 this section as emergency regulations in accordance with Chapter
11 3.5 (commencing with Section 11340) of Part 1. For purposes of
12 Chapter 3.5 (commencing with Section 11340) of Part 1, including,
13 but not limited to, Section 11349.6, the adoption of the regulations
14 shall be considered by the Office of Administrative Law to be
15 necessary for the immediate preservation of the public peace,
16 health, safety, and general welfare. Notwithstanding the 120-day
17 limit specified in subdivision (e) of Section 11346.1, the regulations
18 shall be repealed 180 days after their effective date, unless the
19 department complies with Chapter 3.5 (commencing with Section
20 11340) of Part 1 as provided in subdivision (e) of Section 11346.1.

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

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

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

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

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

3 14684.1. (a) The department, in consultation with the
4 Department of Energy, shall ensure that solar energy equipment
5 is installed, no later than January 1, 2009, on all state buildings,
6 state parking facilities, and state-owned swimming pools that are
7 heated with fossil fuels or electricity, where feasible. The
8 department shall establish a schedule designating when solar energy
9 equipment will be installed on each building and facility, with
10 priority given to buildings and facilities where installation is most
11 feasible.

12 (b) Solar energy equipment shall be installed, where feasible,
13 as part of the construction of all state buildings and state parking
14 facilities for which construction commences on or after January
15 1, 2008.

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

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

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

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

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

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

37 (f) The department may adopt regulations for the purposes of
38 this section as emergency regulations in accordance with Chapter
39 3.5 (commencing with Section 11340) of Part 1. For purposes of
40 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

1 department shall coordinate plan implementation efforts, and make
2 recommendations to the Governor and the Legislature to achieve
3 energy efficiency goals for state facilities.

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

6 15814.23. The Department of General Services or each state
7 agency having jurisdiction shall ensure that all new state buildings
8 are designed and constructed to meet at least the minimum energy
9 efficiencies specified in standards adopted by the Department of
10 Energy pursuant to Section 25402 of the Public Resources Code.
11 In the design and construction of new state buildings, the
12 department or other responsible state agency shall also consider
13 additional state-of-the-art energy efficiency design measures and
14 equipment, beyond those required by the standards, that are cost
15 effective and feasible.

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

19 15814.24.1. Energy conservation measures eligible for
20 financing by kindergarten through grade 12 schools shall be limited
21 to those measures recommended pursuant to an energy audit
22 provided by the Department of Energy under its existing authority.

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

25 15814.30. (a) All new public buildings for which construction
26 begins after January 1, 1993, shall be models of energy efficiency
27 and shall be designed, constructed, and equipped with all energy
28 efficiency measures, materials, and devices that are feasible and
29 cost effective over the life of the building or the life of the energy
30 efficiency measure, whichever is less.

31 (b) In determining which energy efficiency measures, materials,
32 and devices are feasible and cost effective over the life of the
33 building, the State Architect and the Department of General
34 Services shall consult with the Department of Energy.

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

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

3 15814.34. (a) The Legislature finds and declares all of the
4 following:

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

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

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

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

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

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

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

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

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

33 (3) Consult with the Department of Energy in the development
34 and revision of one or more methods of determining the life cycle
35 costs of commodities.

36 (c) In order to assist other agencies and departments in
37 identifying commodities with the lowest life cycle costs, the
38 Department of General Services shall distribute the following to
39 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.

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.

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

3 16367.5. ~~The Department of Community Services and~~
4 ~~Development shall receive and administer the federal Low-Income~~
5 ~~Home Energy Assistance Program Block Grant, provided for~~
6 ~~pursuant to the Low-Income Home Energy Assistance Act of 1981,~~
7 ~~as amended (42 U.S.C. Sec. 8621 et seq.). The department shall~~
8 ~~afford local service providers maximum flexibility and control;~~
9 ~~within the parameters of federal and state law, in the planning,~~
10 ~~administration, and delivery of Low-Income Home Energy~~
11 ~~Assistance Program Block Grant services. Local service providers~~
12 ~~shall be defined as private, nonprofit, and public agencies~~
13 ~~designated in accordance with Public Law 97-35, as amended. The~~
14 ~~formation of service regions beyond those that were in place in~~
15 ~~1995, or those that were in place in Los Angeles County in January~~
16 ~~1997, shall occur only with the concurrence of service providers~~
17 ~~within the proposed regions. The department shall allocate funds~~
18 ~~received as follows:~~

19 (a) ~~Up to 5 percent of the state's total federal allocation for the~~
20 ~~Low-Income Home Energy Assistance Program shall be retained~~
21 ~~by the Department of Community Services and Development for~~
22 ~~purposes of overall planning and administration. At least 5 percent~~
23 ~~of the state's total federal allocation for the Low-Income Home~~
24 ~~Energy Assistance Program shall be allocated to local service~~
25 ~~providers for purposes of planning and administration.~~

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

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

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

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

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

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

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

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

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

39 ~~(1) Proof of utility shutoff notice.~~

40 ~~(2) Proof of energy termination.~~

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

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

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

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

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

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

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

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

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

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

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

38 ~~(h) The Department of Community Services and Development~~
39 ~~shall contract with local public or private nonprofit agencies, or~~
40 ~~both, to provide outreach, intake, and other activities to enroll~~

1 eligible individuals in the program components prescribed by this
2 section.

3 (i) The program components provided for in this section shall
4 include activities to enroll households that have the highest home
5 energy needs as determined by taking into account both the energy
6 burden of these households, and the unique situation of these
7 households that results from having members of vulnerable
8 populations, including very young children, individuals with
9 disabilities, and frail older individuals, as provided for by Section
10 2603(3) of Public Law 97-35, as amended, and to educate recipients
11 about general energy conservation practices and about the
12 availability of state and federal utility programs for free
13 weatherization of low-income homes.

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

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

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

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

33 16367.5. (a) As used in this section, "department" means the
34 Department of Energy established pursuant to Section 25200 of
35 the Public Resources Code.

36 (b) The department shall receive and administer the federal
37 Low-Income Home Energy Assistance Program Block Grant,
38 provided for pursuant to the Low-Income Home Energy Assistance
39 Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.). The
40 department shall afford local service providers maximum flexibility

1 and control, within the parameters of federal and state law, in the
2 planning, administration, and delivery of Low-Income Home
3 Energy Assistance Program Block Grant services. Local service
4 providers shall be defined as private, nonprofit, and public agencies
5 designated in accordance with Public Law 97-35, as amended. The
6 formation of service regions beyond those that were in place in
7 1995, or those that were in place in Los Angeles County in January
8 1997, shall occur only with the concurrence of service providers
9 within the proposed regions. The department shall allocate funds
10 received as follows:

11 (1) Up to 5 percent of the state's total federal allocation for the
12 Low-Income Home Energy Assistance Program shall be retained
13 by the department for purposes of overall planning and
14 administration. At least 5 percent of the state's total federal
15 allocation for the Low-Income Home Energy Assistance Program
16 shall be allocated to local service providers for purposes of
17 planning and administration.

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

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

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

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

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

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

37 (F) Households with incomes that do not exceed the greater of
38 an amount equal to the maximum percent of the federal poverty
39 level or state median income, as permitted by the federal block
40 grant, except that no household may be excluded from eligibility

1 solely on the basis of household income if that income is less than
2 110 percent of the poverty level for this state, but priority may be
3 given to those households with the highest home energy costs or
4 needs in relation to household income.

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

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

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

36 (A) ~~Proof of utility shutoff notice.~~

37 (B) ~~Proof of energy termination.~~

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

39 (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.~~

1 ~~(9) The program components provided for in this section shall~~
2 ~~include activities to enroll households that have the highest home~~
3 ~~energy needs as determined by taking into account both the energy~~
4 ~~burden of these households, and the unique situation of these~~
5 ~~households that results from having members of vulnerable~~
6 ~~populations, including very young children, individuals with~~
7 ~~disabilities, and frail older individuals, as provided for by Section~~
8 ~~2603(3) of Public Law 97-35, as amended, and to educate recipients~~
9 ~~about general energy conservation practices and about the~~
10 ~~availability of state and federal utility programs for free~~
11 ~~weatherization of low-income homes.~~

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

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

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

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

29 ~~16367.6. (a) The Department of Community Services and~~
30 ~~Development shall receive and administer all state and federal~~
31 ~~funds that are allocated for programs to provide energy assistance,~~
32 ~~weatherization, and lead hazard reduction to qualified low-income~~
33 ~~individuals only, except for those funds that are allocated to, and~~
34 ~~distributed by, the California Energy Extension Service.~~

35 ~~(b) The Department of Community Services and Development~~
36 ~~shall promulgate a comprehensive procedure to assure that those~~
37 ~~energy assistance funds are utilized in the most productive and~~
38 ~~efficient manner, including a distribution system whereby all funds~~
39 ~~allocated for direct assistance payments are distributed by state~~
40 ~~and local agencies directly to the electrical or gas corporations or~~

~~1 other suppliers of energy on behalf of the qualified low-income
2 individuals or by two-party checks made payable to both the energy
3 supplier and the individual. In establishing this system, the
4 Department of Community Services and Development shall consult
5 with representatives of electrical or gas corporations or other
6 suppliers of energy and with local agencies that participate in
7 distributing assistance funds.~~

~~8 The Department of Community Services and Development shall
9 have the discretion to adjust payments to the energy supplier or
10 the individual or to make direct payments to the individual for
11 payment to an energy supplier in special or unique circumstances
12 not otherwise provided for in this section.~~

~~13 (c) This section shall remain in effect only until January 1, 2013,
14 and as of that date is repealed, unless a later enacted statute, that
15 is enacted before January 1, 2013, deletes or extends that date.~~

~~16 SEC. 40. Section 16367.6 is added to the Government Code,
17 to read:~~

~~18 16367.6. (a) The Department of Energy shall receive and
19 administer all state and federal funds that are allocated for programs
20 to provide energy assistance, weatherization, and lead hazard
21 reduction to qualified low-income individuals only, except for
22 those funds that are allocated to, and distributed by, the California
23 Energy Extension Service.~~

~~24 (b) The Department of Energy shall promulgate a
25 comprehensive procedure to assure that those energy assistance
26 funds are utilized in the most productive and efficient manner,
27 including a distribution system whereby all funds allocated for
28 direct assistance payments are distributed by state and local
29 agencies directly to the electrical or gas corporations or other
30 suppliers of energy on behalf of the qualified low-income
31 individuals or by two-party checks made payable to both the energy
32 supplier and the individual. In establishing this system, the
33 Department of Energy shall consult with representatives of
34 electrical or gas corporations or other suppliers of energy and with
35 local agencies that participate in distributing assistance funds.~~

~~36 (c) The Department of Energy shall have the discretion to adjust
37 payments to the energy supplier or the individual or to make direct
38 payments to the individual for payment to an energy supplier in
39 special or unique circumstances not otherwise provided for in this
40 section.~~

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

2 ~~SEC. 41. Section 16367.61 of the Government Code is~~
3 ~~repealed.~~

4 ~~SEC. 42. Section 16367.65 of the Government Code is~~
5 ~~repealed.~~

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

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

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

10 66645. (a) In addition to the provisions of Sections 25302,
11 25500, 25519, 25523, and 25526 of the Public Resources Code,
12 the provisions of this section shall apply to the commission and
13 the Department of Energy with respect to matters within the
14 statutory responsibility of the latter.

15 (b) After one or more public hearings, and prior to January 1,
16 1979, the commission shall designate those specific locations
17 within the Suisun Marsh, as defined in Section 29101 of the Public
18 Resources Code, or the area of jurisdiction of the commission,
19 where the location of a facility, as defined in Section 25110 of the
20 Public Resources Code, would be inconsistent with this title or
21 Division 19 (commencing with Section 29000) of the Public
22 Resources Code. The following locations, however, shall not be
23 so designated: (1) any property of a utility that is used for such a
24 facility or will be used for the reasonable expansion thereof; (2)
25 any site for which a notice of intention to file an application for
26 certification has been filed pursuant to Section 25502 of the Public
27 Resources Code prior to January 1, 1978, and is subsequently
28 approved pursuant to Section 22516 of the Public Resources Code;
29 and (3) the area east of Collinsville Road that is designated for
30 water-related industrial use on the Suisun Marsh Protection Plan
31 Map. Each designation made pursuant to this section shall include
32 a description of the boundaries of those locations, the provisions
33 of this title or Division 19 (commencing with Section 29000) of
34 the Public Resources Code with which they would be inconsistent,
35 and detailed findings concerning the significant adverse impacts
36 that would result from development of a facility in the designated
37 area. The commission shall consider the conclusions, if any,
38 reached by the Department of Energy in its most recently
39 promulgated comprehensive report issued pursuant to Section
40 25309 of the Public Resources Code. The commission also shall

1 request the assistance of the Department of Energy in carrying out
2 the requirements of this section. The commission shall transmit a
3 copy of its report prepared pursuant to this subdivision to the State
4 Energy Resources Conservation and Development Commission.

5 (c) The commission shall revise and update the designations
6 specified in subdivision (b) not less than once every five years.

7 (d) Whenever the California Energy Board within the
8 Department of Energy exercises its siting authority and undertakes
9 proceedings pursuant to the provisions of Chapter 6 (commencing
10 with Section 25500) of Division 15 of the Public Resources Code
11 with respect to any thermal powerplant of 50 megawatts or greater
12 or transmission line to be located, in whole or in part, within the
13 Suisun Marsh or the area of jurisdiction of the commission, the
14 commission shall participate in those proceedings and shall receive
15 from the Department of Energy any notice of intention to file an
16 application for certification of a site and related facilities within
17 the Suisun Marsh or the area of jurisdiction of the commission.
18 The commission shall analyze an application for certification and,
19 prior to commencement of the hearings conducted pursuant to
20 Section 25221 of the Public Resources Code, shall forward to the
21 Department of Energy a written report on the suitability of the
22 proposed site and related facilities specified in that notice. The
23 commission's report shall contain a consideration of, and findings
24 regarding, the following:

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

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

35 (3) The degree to which the proposed site and related facilities
36 could reasonably be modified so as to be consistent with this title,
37 Division 19 (commencing with Section 29000) of the Public
38 Resources Code, the Suisun Marsh Protection Plan, or the San
39 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) "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,

1 to be administered by the department, and the Air Quality
2 Improvement Program, pursuant to Section 44274, to be
3 administered by the state board. The department, by action of the
4 California Energy Board, and the state board shall do all of the
5 following in fulfilling their responsibilities pursuant to their
6 respective programs:

7 (1) Establish sustainability goals to ensure that alternative and
8 renewable fuel and vehicle deployment projects, on a full fuel-cycle
9 assessment basis, will not adversely impact natural resources,
10 especially state and federal lands.

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

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

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

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

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

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

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

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

44272. (a) The Alternative and Renewable Fuel and Vehicle Technology Program is hereby created. The program shall be administered by the department. The 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 California Energy Board shall be approved at a noticed public hearing of the California Energy Board and shall be consistent with the priorities established by the investment plan adopted pursuant to Section 44272.5.

(c) The 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 2281)

1 of Chapter 5 of Division 3 of Title 13 of the California Code of
2 Regulations.

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

5 (6) The project provides nonstate matching funds.

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

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

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

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

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

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

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

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

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

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

36 (5) Alternative and renewable fuel infrastructure, fueling
37 stations, and equipment. The preference in paragraph (10) of
38 subdivision (c) shall not apply to renewable diesel or biodiesel
39 infrastructure, fueling stations, and equipment used solely for
40 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 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 California Energy Board to make a single source or sole source award for a project or activity other than for applied research.

(f) Until January 1, 2012, the 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 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 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 California Energy Board shall, at a minimum, hold one public hearing on the advisory body's recommendations prior to approving the investment plan.

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

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

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

21 44273. (a) The Alternative and Renewable Fuel and Vehicle
22 Technology Fund is hereby created in the State Treasury, to be
23 administered by the department. The moneys in the fund, upon
24 appropriation by the Legislature, shall be expended by the
25 department, by action of the California Energy Board, to implement
26 the Alternative and Renewable Fuel and Vehicle Technology
27 Program in accordance with this chapter.

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

37 (c) Beginning with the integrated energy policy report adopted
38 by the California Energy Board in 2011, and in the subsequent
39 reports adopted thereafter, pursuant to Section 25302 of the Public
40 Resources Code, the department shall include in the report an

1 evaluation of research, development, and deployment efforts funded
2 by this chapter. The evaluation shall include all of the following:

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

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

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

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

15 (5) Recommendations for future actions.

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

18 44274. (a) The Air Quality Improvement Program is hereby
19 created. The program shall be administered by the state board, in
20 consultation with the districts. The state board shall develop
21 guidelines to implement the program. Prior to the adoption of the
22 guidelines, the state board shall hold at least one public hearing.
23 In addition, the state board shall hold at least three public
24 workshops with at least one workshop in northern California, one
25 in the central valley, and one in southern California. The purpose
26 of the program shall be to fund, upon appropriation by the
27 Legislature, air quality improvement projects relating to fuel and
28 vehicle technologies. The primary purpose of the program shall
29 be to fund projects to reduce criteria air pollutants, improve air
30 quality, and provide funding for research to determine and improve
31 the air quality impacts of alternative transportation fuels and
32 vehicles, vessels, and equipment technologies.

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

39 (c) The program shall be limited to competitive grants, revolving
40 loans, loan guarantees, loans, and other appropriate funding

1 measures that further the purposes of the program. Projects to be
2 funded shall include only the following:

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

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

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

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

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

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

21 (A) Lower emission schoolbus programs.

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

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

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

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

39 (d) (1) Beginning January 1, 2011, the state board shall submit
40 to the Legislature a biennial report to evaluate the implementation

1 of the Air Quality Improvement Program established pursuant to
2 this chapter.

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

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

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

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

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

13 (E) Recommendations for future actions.

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

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

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

21 3806.5. "Department" means the Department of Energy.

22 SEC. 49. Section 3808 of the Public Resources Code is
23 amended to read:

24 3808. "Geothermal resources" means geothermal resources
25 designated by the United States Geological Survey or the
26 Department of Conservation, or by both.

27 The Department of Conservation shall periodically review, and
28 revise as necessary, its designation of geothermal resource areas
29 and shall transmit any changes to the department.

30 SEC. 50. Section 3810 of the Public Resources Code is
31 amended to read:

32 3810. (a) (1) "Award repayment or program reimbursement
33 agreement," including a "royalty agreement," as specified in
34 subdivision (b), means a method used at the discretion of the
35 department to determine and establish the terms of replenishment
36 of program funds, including, at a minimum, repayment of the
37 award to provide for further awards under this chapter. The award
38 repayment or program reimbursement agreement may provide that
39 payments be made to the department when the award recipient,
40 affiliate of the award recipient, or third party receives, through any

1 kind of transaction, an economic benefit from the project,
2 invention, or product developed, made possible, or derived, in
3 whole or in part, as a result of the award.

4 (2) An award repayment or program reimbursement agreement
5 shall specify the method to be used by the department to determine
6 and establish the terms of repayment and reimbursement of the
7 award.

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

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

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

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

24 (2) The royalty agreement shall specify the method to be used
25 by the department to determine and establish the terms of payment
26 of the royalty rate.

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

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

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

38 (2) The department may require advance notice of any
39 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

1 department, to a local jurisdiction, and (3) be approved by the city,
2 county, or Indian reservation within which the project is to be
3 located.

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

7 SEC. 52. Section 3822.1 of the Public Resources Code is
8 amended to read:

9 3822.1. Notwithstanding any other provision of law,
10 commencing with the 1984–85 fiscal year and in each fiscal year
11 thereafter, any revenues not granted pursuant to Section 3822
12 remaining in the Geothermal Resources Development Account
13 and any revenues expected to be received and disbursed during
14 the 1984–85 fiscal year and in each fiscal year thereafter shall be
15 made a part of the Governor’s Budget. Projects approved by the
16 department under this chapter shall be submitted for review and
17 comment to the Department of Finance, the Legislative Analyst,
18 and the Joint Legislative Budget Committee when the Legislature
19 is in session. After a 30-day period, the department shall execute
20 the funding agreements. The department shall submit to the
21 Legislature by April 1 of each year, a list of projects, in priority
22 order, selected and approved during the previous year.

23 SEC. 53. Section 3822.2 of the Public Resources Code is
24 amended to read:

25 3822.2. (a) Notwithstanding any other provision of law, the
26 department may expend funds, from that portion of the Geothermal
27 Resources Development Account used by the department for grants
28 and loans, to provide direct technical assistance to local
29 jurisdictions which are eligible for grants and loans pursuant to
30 Section 3822.

31 (b) The total of all amounts expended pursuant to this section
32 shall not exceed 5 percent of all funds available under Section
33 3822 or one hundred thousand dollars (\$100,000), whichever
34 amount is less.

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

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

40 (2) The project definition and likelihood of success.

1 (3) Local needs and potential project benefits.

2 SEC. 54. Section 4799.16 of the Public Resources Code is
3 amended to read:

4 4799.16. The department shall coordinate its activities and
5 cooperate with the Department of Energy in the development of
6 surveys, studies, and research concerning the utilization of wood
7 waste and forest growth for energy. The department shall also
8 coordinate its activities with other public and private agencies to
9 ensure that the activities of the department and those other agencies
10 are not duplicative and the maximum benefit occurs from actions
11 taken by the department to carry out its responsibilities pursuant
12 to this chapter.

13 SEC. 55. Section 6815.2 of the Public Resources Code is
14 amended to read:

15 6815.2. (a) Notwithstanding Section 6815.1, the commission
16 may take any oil, gas, or other hydrocarbons taken in kind by it,
17 pursuant to any lease or agreement, and exchange it, by competitive
18 bidding, for refined products that shall be allocated to state agencies
19 and to other public agencies, if the California Energy Board, after
20 a public hearing, finds, in its judgment, that the retention and
21 allocation is necessary to alleviate fuel shortage conditions or will
22 effect a substantial cost saving to the state.

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

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

38 (d) The refined products obtained from exchange contracts or
39 agreements entered into pursuant to this section shall be allocated
40 to state agencies and to other public agencies in accordance with

1 the regulations which shall be adopted, after a public hearing, by
2 the Department of Energy.

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

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

18 SEC. 56. Section 14584 of the Public Resources Code is
19 amended to read:

20 14584. (a) Operators of reverse vending machines or
21 processors may apply to the California Pollution Control Financing
22 Authority for financing pursuant to Section 44526 of the Health
23 and Safety Code, as a means of obtaining capital for establishment
24 of a convenience network. For purposes of Section 44508 of the
25 Health and Safety Code, “project” includes the establishing of a
26 recycling location pursuant to the division.

27 (b) Corporations, companies, or individuals may apply for loan
28 and grant funds from the Energy Technologies Research,
29 Development, and Demonstration Account specified in Section
30 25683 by applying to the Department of Energy for the purpose
31 of demonstrating equipment for enhancing recycling opportunities.

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

34 25000.1. (a) The Legislature further finds and declares that,
35 in addition to their other ratepayer protection objectives, a principal
36 goal of electric and natural gas utilities’ resource planning and
37 investment shall be to minimize the cost to society of the reliable
38 energy services that are provided by natural gas and electricity,
39 and to improve the environment and to encourage the diversity of
40 energy sources through improvements in energy efficiency and

1 development of renewable energy resources, such as wind, solar,
2 and geothermal energy.

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

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

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

24 25005.5. The Legislature further finds and declares that
25 information should be acquired and analyzed by the Department
26 of Energy in order to ascertain future energy problems and
27 uncertainties, including, but not limited to:

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

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

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

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

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

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

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

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

7 25104. "Commission" or "board" means the California Energy
8 Board. References to the State Energy Resources Conservation
9 and Development Commission or the California Energy
10 Commission in other laws shall be to the California Energy Board.

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

13 25104.1. (a) "Department" means the Department of Energy.

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

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

17 25104.2. "Secretary" means the Secretary of Energy.

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

20 25106. "Adviser" means the public adviser employed by the
21 department pursuant to Section 25217.1.

22 SEC. 63. The heading of Chapter 3 (commencing with Section
23 25200) of Division 15 of the Public Resources Code is amended
24 to read:

25
26 CHAPTER 3. DEPARTMENT OF ENERGY
27

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

30 SEC. 65. Section 25200 is added to the Public Resources Code,
31 to read:

32 25200. (a) The Department of Energy is hereby created in
33 state government to be headed by the Secretary of Energy who
34 shall be appointed by the Governor, subject to Senate confirmation,
35 and who shall hold office at the pleasure of the Governor. The
36 Governor shall appoint the initial secretary by January 31, 2011.

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

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

3 (c) The Secretary of Energy shall have the power of a head of
4 a department pursuant to Chapter 2 (commencing with Section
5 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

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

8 (e) Consistent with the powers set forth in Chapter 2
9 (commencing with Section 12850) of Part 2.5 of Division 3 of
10 Title 2 of the Government Code, the Secretary of Energy shall
11 organize the department, with the approval of the Governor, in the
12 manner he or she deems necessary to properly conduct the
13 operations of the department. Notwithstanding Sections 11042,
14 11043, and 11157 of the Government Code, the secretary may
15 employ legal counsel who shall represent the department and the
16 board in connection with legal matters and litigation before any
17 boards, agencies, or courts of the state or federal government.

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

21 (g) On or before April 1, 2011, the Secretary of Energy shall
22 submit to the Legislature a proposal to recodify statutory provisions
23 related to the department, and any other appropriate provisions,
24 into an Energy Code.

25 SEC. 66. Section 25201 of the Public Resources Code is
26 repealed.

27 SEC. 67. Section 25201 is added to the Public Resources Code,
28 to read:

29 25201. (a) The Department of Energy hereby succeeds to, and
30 is vested with, all the powers, duties, responsibilities, obligations,
31 liabilities, jurisdiction, and rights and privileges of the following
32 agencies, which shall no longer exist, and shall be known as
33 predecessor entities:

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

39 (2) Electricity Oversight Board.

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

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

7 SEC. 69. Section 25202 is added to the Public Resources Code,
8 to read:

9 25202. In addition to the powers, duties, responsibilities,
10 jurisdiction, and rights and privileges specified in Section 25201,
11 the Department of Energy hereby succeeds to, and is vested with,
12 all the powers, duties, responsibilities, obligations, liabilities,
13 jurisdiction, and rights and privileges of all of the following:

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

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

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

21 ~~(d) On and after January 1, 2013, all functions of the Department~~
22 ~~of Community Services and Development related to the receipt~~
23 ~~and administration of federal energy-related programs including~~
24 ~~the Low-Income Home Energy Assistance Program Block Grant,~~
25 ~~provided for pursuant to the Low-Income Home Energy Assistance~~
26 ~~Act of 1981, as amended (42 U.S.C. Sec. 8621 et seq.), and the~~
27 ~~United States Department of Energy Weatherization Assistance~~
28 ~~Program, provided for pursuant to Title IV of the Energy~~
29 ~~Conservation and Production Act (Public Law 94-385, as amended)~~
30 ~~and pursuant to the United States Housing and Urban Development~~
31 ~~Residential Lead-Based Paint Hazard Reduction Act of 1992~~
32 ~~(Public Law 102-550, as amended), and the receipt and~~
33 ~~administration of the community service block grants provided~~
34 ~~pursuant to Subtitle B of Title VI of Public Law 97-35, as amended,~~
35 ~~and administered pursuant to Chapter 9 (commencing with Section~~
36 ~~12725) of Part 2 of Division 3 of Title 2 of the Government Code.~~

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

39 SEC. 71. Section 25203 is added to the Public Resources Code,
40 to read:

1 25203. (a) There is, in the state government, the California
2 Energy Board, which is hereby created within the Department of
3 Energy.

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

5 (1) The Secretary of Energy, who shall serve as the chair of the
6 board.

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

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

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

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

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

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

19 (4) The Secretary of the Natural Resources Agency.

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

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

27 (2) A vacancy shall be filled by the Governor within 30 days
28 of the date on which a vacancy occurs for the unexpired portion
29 of the term in which it occurs or for any new term of office. If the
30 Governor fails to make an appointment for a vacancy within the
31 30-day period, the Senate Committee on Rules may make the
32 appointment to fill the vacancy for the unexpired portion of the
33 term in which the vacancy occurred or for any new term of office.

34 (3) Every appointment made by the Governor to the board shall
35 be subject to the advice and consent of a majority of the members
36 elected to the Senate.

37 (4) The terms of office of the public members of the board shall
38 be for four years. Any vacancy shall be filled by the Governor
39 within 30 days of the date on which a vacancy occurs for the

1 unexpired portion of the term in which it occurs or for any new
2 term of office.

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

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

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

17 (g) The board hereby succeeds to, and is vested with, all powers,
18 duties, obligations, liabilities, responsibilities, jurisdiction, and
19 rights and privileges of the predecessor State Energy Resources
20 Conservation and Development Commission set forth in Chapter
21 6 (commencing with Section 25500).

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

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

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

32 SEC. 72. Section 25204 of the Public Resources Code is
33 repealed.

34 SEC. 73. Section 25204 is added to the Public Resources Code,
35 to read:

36 25204. (a) All regulations, orders, and guidelines adopted by
37 an entity listed in subdivision (a) of Section 25201 or an entity
38 listed in Section 25202 with regard to functions of that entity
39 described in that section, and any of their predecessors in effect
40 on or before January 1, ~~2010~~ 2011, shall remain in effect with

1 respect to the programs and functions for which they were adopted,
2 and shall be fully enforceable unless and until readopted, amended,
3 or repealed, or until they expire by their own terms. All proceedings
4 pending before an entity listed in subdivision (a) of Section 25201
5 or an entity listed in Section 25202 shall not abate but continue as
6 proceedings before the department or commission, as appropriate.

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

13 (c) An action by or against the entities listed in subdivision (a)
14 of Section 25201 or Section 25202, or any of their predecessors
15 shall not abate but, except as provided in Section 25227.3, shall
16 continue in the name of the Department of Energy and the
17 department shall be substituted for the entities and any of their
18 predecessors by the court where the action is pending. The
19 substitution shall not in any way affect the rights of the parties to
20 the action.

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

23 25205. (a) A person shall not be a member of the board who,
24 during the two years prior to appointment on the board, received
25 any substantial portion of his or her income directly or indirectly
26 from any electric utility, or who engages in sale or manufacture
27 of any major component of any facility subject to licensing by the
28 board. A member of the board shall not be employed by any
29 electric utility, applicant, or, within two years after he or she ceases
30 to be a member of the commission, by any person who engages
31 in the sale or manufacture of any major component of any facility
32 subject to licensing by the board.

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

36 (c) The members of the board and all employees of the
37 department shall comply with all applicable provisions of Section
38 19251 of the Government Code.

39 (d) A person who is a member of the board or employee of the
40 department shall not participate personally and substantially as a

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

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

23 (f) This section shall not apply if the Attorney General finds
24 that the interest of the member of the board or employee of the
25 department is not so substantial as to be deemed likely to affect
26 the integrity of the services which the state may expect from the
27 member or employee.

28 (g) Any person who violates this section is guilty of a felony
29 and shall be subject to a fine of not more than ten thousand dollars
30 (\$10,000) or imprisonment in the state prison, or both.

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

34 SEC. 75. Section 25205.5 is added to the Public Resources
35 Code, to read:

36 25205.5. A contract, grant, loan, lease, license, bond, or any
37 other agreement to which an entity listed in subdivision (a) of
38 Section 25201, or an entity listed in Section 25202 with regard to
39 functions of that entity described in that section, or any of their
40 predecessors are a party shall not be void or voidable by reason

1 of this act, but shall continue in full force and effect, with the
2 Department of Energy assuming all the rights, obligations,
3 liabilities, and duties of the entity and any of its predecessors. That
4 assumption by the department shall not in any way affect the rights
5 of the parties to the contract, grant, loan, lease, license, or
6 agreement. Bonds issued by or on behalf of the entity referred to
7 in paragraph (1) of subdivision (a) of Section 25201 or the entities
8 referred to in Section 25202 with regard to the functions transferred
9 to the department, or issued by or on behalf of any of the
10 predecessors, on or before January 1, 2011, shall become the
11 indebtedness of the department. Any ongoing obligations or
12 responsibilities of the entity or any of its predecessors for managing
13 and maintaining bond issuances shall be transferred to the newly
14 created entity without impairment to any security contained in the
15 bond instrument.

16 SEC. 76. Section 25206 of the Public Resources Code is
17 repealed.

18 SEC. 77. Section 25206 is added to the Public Resources Code,
19 to read:

20 25206. On and after January 1, 2011, the unexpended balance
21 of all funds available for use by the entities listed in subdivision
22 (a) of Section 25201, or the entities listed in Section 25202 for the
23 performance of functions of these entities described in that section,
24 or any of their predecessors in carrying out a function transferred
25 to the Department of Energy shall be available for use by the
26 department. Unexpended balances shall be utilized consistent with
27 the purposes for which they were appropriated. All books,
28 documents, records, and property of the entities shall be transferred
29 to the department.

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

32 25207. The secretary and the public members of the board shall
33 receive the salary provided for by Chapter 6 (commencing with
34 Section 11550) of Part 1 of Division 3 of Title 2 of the Government
35 Code.

36 Each member of the board shall receive the necessary traveling
37 and other expenses incurred in the performance of his or her official
38 duties. When necessary, the members of the board and the
39 employees of the department may travel within or without the
40 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.

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

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

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

11 (6) Recommendations for administering existing electric
12 transmission siting applications to ensure continuity and
13 efficiencies if the report recommends transferring the transmission
14 siting authority to the Department of Energy.

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

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

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

22 25209. Each member of the board shall have one vote. Except
23 as provided in Section 25211, the affirmative votes of at least three
24 members shall be required for the transaction of any business of
25 the board.

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

28 25210. The board may hold any hearings and conduct any
29 investigations in any part of the state necessary to carry out its
30 powers and duties prescribed by this division and, for those
31 purposes, has the same powers as are conferred upon heads of
32 departments of the state by Article 2 (commencing with Section
33 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the
34 Government Code.

35 SEC. 82. Section 25211 of the Public Resources Code is
36 amended to read:

37 25211. The board may appoint a committee of not less than
38 two members of the board to carry on investigations, inquiries, or
39 hearings that the board has power to undertake or to hold. At least
40 one member of the board shall attend all public hearings or other

1 proceedings held pursuant to Chapter 6 (commencing with Section
2 25500), and all public hearings in biennial report proceedings and
3 rulemaking proceedings, except that, upon agreement of all parties
4 to a proceeding who are present at the hearing or proceeding, the
5 committee may authorize a hearing officer to continue to take
6 evidence in the temporary absence of a board member. Every order
7 made by the committee pursuant to the inquiry, investigation, or
8 hearing, when approved or confirmed by the board and ordered
9 filed in its office, shall be the order of the board.

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

12 25212. Every two years the Governor shall designate a vice
13 ~~chairman~~ *chairperson* of the board from among its members.

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

16 25213. The department and board shall adopt rules and
17 regulations, as necessary, to carry out the provisions of this division
18 in conformity with the provisions of Chapter 3.5 (commencing
19 with Section 11340) of Part 1 of Division 3 of Title 2 of the
20 Government Code. The department and the board shall make
21 available to any person upon request copies of proposed
22 regulations, together with summaries of reasons supporting their
23 adoption.

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

26 25214. The department and the board shall maintain their
27 headquarters in the County of Sacramento. The board shall hold
28 meetings at times and places as shall be determined by it. All
29 meetings and hearings of the board shall be open to the public,
30 and opportunity to be heard with respect to the subject of the
31 hearings shall be afforded to any person. Upon request, an
32 interested party may be granted reasonable opportunity to examine
33 any witness testifying at the hearing.

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

36 25215. A member of the board may be removed from office
37 by the Legislature, by concurrent resolution adopted by a majority
38 vote of all members elected to each house, for dereliction of duty
39 or corruption or incompetency.

1 SEC. 87. Section 25216 of the Public Resources Code is
2 amended to read:

3 25216. In addition to other duties specified in this division, the
4 department shall do all of the following:

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

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

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

30 SEC. 88. Section 25216.3 of the Public Resources Code is
31 amended to read:

32 25216.3. (a) The department shall compile relevant local,
33 regional, state, and federal land use, public safety, environmental,
34 and other standards to be met in designing, siting, and operating
35 facilities in this state; except as provided in subdivision (d) of
36 Section 25402, adopt standards, except for air and water quality,
37 to be met in designing or operating facilities to safeguard public
38 health and safety, which may be different from or more stringent
39 than those adopted by local, regional, or other state agencies, or
40 by any federal agency if permitted by federal law; and monitor

1 compliance and ensure that all facilities are operated in accordance
2 with this division.

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

7 SEC. 89. Section 25216.5 of the Public Resources Code is
8 amended to read:

9 25216.5. The department shall do all of the following:

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

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

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

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

1 purposes of retrieving and disseminating any such information
2 pursuant to this section.

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

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

7 25217.1. The board shall nominate and the Governor shall
8 appoint for a term of three years a public adviser to the board who
9 shall be an attorney admitted to the practice of law in this state
10 and who shall carry out the provisions of Section 25222 as well
11 as other duties prescribed by this division or by the board. The
12 adviser may be removed from office only upon the joint
13 concurrence of four board members and the Governor.

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

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

18 25218. In addition to other powers specified in this division,
19 the department may do any of the following:

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

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

27 (c) Be sued and sue.

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

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

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

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

38 25218.5. The provisions specifying any power or duty of the
39 department or the board shall be liberally construed, in order to
40 carry out the objectives of this division.

1 SEC. 95. Section 25219 is added to the Public Resources Code,
2 to read:

3 25219. The department shall create a legal subcommittee in
4 order to collaborate and cooperate in developing a single statewide
5 position on litigation concerning energy matters within the state.
6 The subcommittee shall be comprised of:

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

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

11 (c) The Attorney General.

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

13 SEC. 96. Section 25220 of the Public Resources Code is
14 amended to read:

15 25220. (a) As to any matter involving the federal government,
16 or departments or agencies, that is within the scope of the power
17 and duties of the department, the department may represent its
18 interest or the interest of any county, city, state agency, or public
19 district upon its request, and to that end may correspond, confer,
20 and cooperate with the federal government, or departments or
21 agencies.

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

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

32 25221. Upon request of the department, the Attorney General
33 shall represent the department and the state in litigation concerning
34 affairs of the department, unless the Attorney General represents
35 another state agency, in which case the department shall be
36 authorized to employ other counsel.

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

39 25222. The adviser shall ensure that full and adequate
40 participation by all interested groups and the public at large is

1 secured in the planning, site and facility certification, energy
2 conservation, and emergency allocation procedures provided in
3 this division. The adviser shall insure that timely and complete
4 notice of board meetings and public hearings is disseminated to
5 all interested groups and to the public at large. The adviser shall
6 also advise those groups and the public as to effective ways of
7 participating in the board's proceedings. The adviser shall
8 recommend to the board additional measures to ensure open
9 consideration and public participation in energy planning, site and
10 facility certification, energy conservation, and emergency allocation
11 proceedings.

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

14 25223. (a) Except as provided in subdivision (b), the
15 department and the board shall make available any information
16 filed or submitted pursuant to this division under the provisions
17 of the California Public Records Act, Chapter 3.5 (commencing
18 with Section 6250) of Division 7, Title 1 of the Government Code.

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

23 SEC. 100. Section 25224 of the Public Resources Code is
24 amended to read:

25 25224. The department, the board, and other state agencies
26 shall, to the fullest extent possible, exchange records, reports,
27 material, and other information relating to energy resources and
28 conservation and power facilities siting, or any areas of mutual
29 concern, to the end that unnecessary duplication of effort may be
30 avoided.

31 SEC. 101. Section 25225 of the Public Resources Code is
32 amended to read:

33 25225. (a) Prior to expending any funds for any research,
34 development, or demonstration program or project relating to
35 vehicles or vehicle fuels, the department, by action of the board,
36 shall do both of the following, using existing resources:

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

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

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

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

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

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

20 SEC. 102. Section 25226 of the Public Resources Code is
21 amended to read:

22 25226. (a) The Energy Technologies Research, Development,
23 and Demonstration Account established under former Section
24 25683 is hereby continued in existence, in the General Fund, to
25 be administered by the department for the purpose of carrying out
26 Chapter 7.3 (commencing with Section 25630) and Chapter 7.5
27 (commencing with Section 25650).

28 (b) The Controller shall deposit in the account all money
29 appropriated to the account by the Legislature, plus accumulated
30 interest on that money, and money from loan repayments, interest,
31 and royalties pursuant to Sections 25630 and 25650, for use by
32 the department, upon appropriation by the Legislature, for the
33 purposes specified in Chapter 7.3 (commencing with Section
34 25630) and Chapter 7.5 (commencing with Section 25650).

35 SEC. 103. Chapter 3.5 (commencing with Section 25227) is
36 added to Division 15 of the Public Resources Code, to read:

CHAPTER 3.5. OFFICE OF ENERGY MARKET OVERSIGHT

25227.1. (a) Any reference in the law to the “Electricity Oversight Board” or the “Office of Energy Market 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. The following matters are subject to California’s exclusive jurisdiction:

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

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

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

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

10 (e) Open meeting standards and meeting notice requirements.

11 (f) Appointment of advisory representatives representing state
12 interests.

13 (g) Public access to corporate records.

14 (h) The amendment of bylaws relevant to these matters.

15 25227.3. The Office of Energy Market Oversight may do all
16 of the following:

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

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

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

27 (d) Sue and be sued.

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

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

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

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

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

40 (j) Administer oaths.

1 (k) Adopt or amend rules and regulations to carry out the
2 purposes and provisions of this chapter.

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

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

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

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

15 25228. (a) The Office of Energy Market Oversight may adopt
16 rules or protective orders to protect the confidential status of market
17 sensitive information.

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

23 25228.2. (a) Any remaining reference in any law to the duties,
24 responsibilities, powers, and functions of the Electricity Oversight
25 Board, which no longer exists, shall be considered a reference to
26 the Secretary of Energy or the Department of Energy unless the
27 context otherwise requires.

28 (b) All officers and employees of the Electricity Oversight Board
29 who, on January 1, 2011, are serving in the state civil service, other
30 than as temporary employees, shall be transferred to the
31 Department of Energy pursuant to Section 19050.9 of the
32 Government Code. The status, position, and rights of any officer
33 or employee of the board shall not be affected by the transfer and
34 shall be retained by the person as an officer or employee of the
35 department, as the case may be, pursuant to the State Civil Service
36 Act (Part 2 (commencing with Section 18500) of Division 5 of
37 Title 2 of the Government Code), except as to a position that is
38 exempt from civil service.

39 (c) As soon as practicable, the Secretary of Energy shall report
40 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 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 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 (1) Provide information about the performance of energy
2 industries.

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

6 (3) Analyze and develop energy policies.

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

9 (5) Facilitate efficient and reliable energy markets.

10 SEC. 105. Section 25302 of the Public Resources Code is
11 amended to read:

12 25302. (a) Beginning November 1, 2003, and every two years
13 thereafter, the board shall adopt an integrated energy policy report.
14 This integrated report shall contain an overview of major energy
15 trends and issues facing the state, including, but not limited to,
16 supply, demand, pricing, reliability, efficiency, and impacts on
17 public health and safety, the economy, resources, and the
18 environment. Energy markets and systems shall be grouped and
19 assessed in three subsidiary volumes:

20 (1) Electricity and natural gas markets.

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

22 (3) Public interest energy strategies.

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

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

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

10 (e) In preparation of the report, the department shall consult
11 with the following entities: the Public Utilities Commission, the
12 Division of Ratepayer Advocates, the State Air Resources Board,
13 the Independent System Operator, the Department of Water
14 Resources, the State Department of Transportation, and the
15 Department of Motor Vehicles, and any federal, state, and local
16 agencies it deems necessary in preparation of the integrated energy
17 policy report. To ensure collaborative development of state energy
18 policies, these agencies shall make a good faith effort to provide
19 data, assessment, and proposed recommendations for review by
20 the department.

21 (f) The department shall provide the report to the Public Utilities
22 Commission, the Division of Ratepayer Advocates, the State Air
23 Resources Board, the Independent System Operator, the
24 Department of Water Resources, and the Department of
25 Transportation. For the purpose of ensuring consistency in the
26 underlying information that forms the foundation of energy policies
27 and decisions affecting the state, those entities shall carry out their
28 energy-related duties and responsibilities based upon the
29 information and analyses contained in the report. If an entity listed
30 in this subdivision objects to information contained in the report,
31 and has a reasonable basis for that objection, the entity shall not
32 be required to consider that information in carrying out its
33 energy-related duties.

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

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

38 25303. (a) The department shall conduct electricity and natural
39 gas forecasting and assessment activities to meet the requirements

1 of paragraph (1) of subdivision (a) of Section 25302, including,
2 but not limited to, all of the following:

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

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

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

26 (4) Evaluation of potential impacts of electricity and natural gas
27 supply, demand, and infrastructure and resource additions on the
28 electricity and natural gas systems, public health and safety, the
29 economy, resources, and the environment.

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

34 (6) Evaluation of whether electricity and natural gas markets
35 are adequately meeting public interest objectives including the
36 provision of all of the following: economic benefits; competitive,
37 low-cost reliable services; customer information and protection;
38 and environmentally sensitive electricity and natural gas supplies.
39 This evaluation may consider the extent to which California is an
40 element within western energy markets, the existence of appropriate

1 incentives for market participants to provide supplies and for
2 consumers to respond to energy prices, appropriate identification
3 of responsibilities of various market participants, and an assessment
4 of long-term versus short-term market performance. To the extent
5 this evaluation identifies market shortcomings, the department
6 shall propose market structure changes to improve performance.

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

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

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

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

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

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

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

35 (A) Generation facility efficiency.

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

37 (C) The extent to which recent resource additions have, and
38 expected resource additions are likely to, displace or reduce the
39 operation of existing facilities, including the environmental
40 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

1 availability; and transportation and distribution systems capacity
2 and use.

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

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

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

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

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

28 SEC. 108. Section 25305 of the Public Resources Code is
29 amended to read:

30 25305. The department shall rely upon forecasting and
31 assessments performed in accordance with Sections 25301 to
32 25304, inclusive, as the basis for analyzing the success of and
33 developing policy recommendations for public interest energy
34 strategies. Public interest energy strategies include, but are not
35 limited to, achieving energy efficiency and energy conservation;
36 implementing load management; pursuing research, development,
37 demonstration, and commercialization of new technologies;
38 promoting renewable generation technologies; reducing statewide
39 greenhouse gas emissions and addressing the impacts of climate
40 change on California; stimulating California's energy-related

1 business activities to contribute to the state's economy; and
2 protecting and enhancing the environment. Additional assessments
3 to address public interest energy strategies shall include, but are
4 not limited to, all of the following:

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

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

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

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

22 SEC. 109. Section 25305.5 of the Public Resources Code is
23 amended to read:

24 25305.5. The department shall include in its report prepared
25 pursuant to Sections 25301 to 25304, inclusive, a description of
26 international energy market prospects and an evaluation of its
27 export promotion activities, as well as an assessment of the state
28 of the California energy technology and energy conservation
29 industry's efforts to enter foreign markets. The report shall also
30 include recommendations for state government initiatives to foster
31 the California energy technology and energy conservation
32 industry's competition in world markets.

33 SEC. 110. Section 25306 of the Public Resources Code is
34 amended to read:

35 25306. The department shall conduct workshops, hearings,
36 and other forums to gain the perspectives of the public and market
37 participants for purposes of the integrated energy policy report
38 prepared pursuant to Section 25302 and the forecasting and
39 assessments prepared pursuant to Sections 25301, 25303, 25304,
40 and 25305. The department shall include the comments, as well

1 as responses to those comments, of governmental agencies, industry
2 representatives, market participants, private groups, and any other
3 person concerning the department's proposals and
4 recommendations in the docket for the integrated energy policy
5 report.

6 SEC. 111. Section 25310 of the Public Resources Code is
7 amended to read:

8 25310. On or before November 1, 2007, and by November 1
9 of every third year thereafter, the department in consultation with
10 the Public Utilities Commission and local publicly owned electric
11 utilities, in a public process that allows input from other
12 stakeholders, shall develop a statewide estimate of all potentially
13 achievable cost-effective electricity and natural gas efficiency
14 savings and establish targets for statewide annual energy efficiency
15 savings and demand reduction for the next 10-year period. The
16 department shall base its estimate at least in part on information
17 developed pursuant to Sections 454.55, 454.56, 715, 9615, and
18 9615.5 of the Public Utilities Code. The department shall, for each
19 electrical corporation and each gas corporation, include in the
20 integrated energy policy report, a comparison of the public utility's
21 annual targets established pursuant to Sections 454.55 and 454.56,
22 and the public utility's actual energy efficiency savings and demand
23 reductions.

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

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

32 (b) The data collection system, adopted by regulation under
33 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
34 3 of Title 2 of the Government Code, and managed by the
35 department shall:

36 (1) Include a timetable for the submission of this information,
37 so that the integrated energy policy report required by Section
38 25302 can be completed in an accurate and timely manner.

39 (2) Require a person to submit only information that is
40 reasonably relevant, and that the person can either be expected to

1 acquire through his or her market activities, or possesses or
2 controls. Information collected pursuant to this section shall relate
3 to the functional role of each category of market participant in that
4 industry and the consumers within that industry.

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

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

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

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

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

6 SEC. 113. Section 25321 of the Public Resources Code is
7 amended to read:

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

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

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

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

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

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

33 SEC. 114. Section 25322 of the Public Resources Code is
34 amended to read:

35 25322. (a) The data collection system managed pursuant to
36 Section 25320 shall include the following requirements regarding
37 the confidentiality of the information collected by the department:

38 (1) Any person required to present information to the department
39 pursuant to this section may request that specific information be

1 held in confidence. The department shall grant the request in any
2 of the following circumstances:

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

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

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

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

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

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

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

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

36 (2) If the department receives a written request to publicly
37 disclose a disaggregated or unmasked record of information
38 designated as confidential under paragraph (1) or (2) of subdivision
39 (a), notice of the request shall be provided to the person that
40 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:

1 25323. This division does not authorize the department in the
2 performance of its analytical, planning, siting, or certification
3 responsibilities to mandate a specified supply plan for any utility.

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

6 25324. The department, in consultation with the Public Utilities
7 Commission, the California Independent System Operator,
8 transmission owners, users, and consumers, shall develop and the
9 board shall adopt a strategic plan for the state's electric
10 transmission grid using existing resources. The strategic plan shall
11 identify and recommend actions required to implement investments
12 needed to ensure reliability, relieve congestion, and meet future
13 growth in load and generation, including, but not limited to,
14 renewable resources, energy efficiency, and other demand reduction
15 measures. The plan shall be included in each integrated energy
16 policy report adopted pursuant to subdivision (a) of Section 25302.

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

19 25331. (a) The board may designate a transmission corridor
20 zone on its own motion or by application of a person who plans
21 to construct a high-voltage electric transmission line within the
22 state. The designation of a transmission corridor zone shall serve
23 to identify a feasible corridor where one or more future
24 high-voltage electric transmission lines can be built that are
25 consistent with the state's needs and objectives as set forth in the
26 strategic plan adopted pursuant to Section 25324.

27 (b) A person planning to construct a high-voltage electric
28 transmission line may submit to the board an application to
29 designate a proposed transmission corridor zone as being consistent
30 with the strategic plan adopted pursuant to Section 25324. The
31 application shall be in the form prescribed by the board and shall
32 be supported by any information that the board may require.

33 SEC. 118. Section 25332 of the Public Resources Code is
34 amended to read:

35 25332. The designation of a transmission corridor zone is
36 subject to the California Environmental Quality Act (Division 13
37 (commencing with Section 21000)). The department shall be the
38 lead agency, as provided in Section 21165, for all transmission
39 corridor zones proposed for designation pursuant to this chapter.

1 SEC. 119. Section 25333 of the Public Resources Code is
2 amended to read:

3 25333. (a) In developing a strategic plan pursuant to Section
4 25324 or considering an application for designation pursuant to
5 this chapter, the department shall confer with cities and counties,
6 federal agencies, and California Native American tribes to identify
7 appropriate areas within their jurisdictions that may be suitable
8 for a transmission corridor zone. The department shall, to the extent
9 feasible, coordinate efforts to identify long-term transmission needs
10 of the state with the land use plans of cities, counties, federal
11 agencies, and California Native American tribes.

12 (b) The board shall not designate a transmission corridor zone
13 within the jurisdiction of a California Native American tribe
14 without the approval of the California Native American tribe.

15 SEC. 120. Section 25334 of the Public Resources Code is
16 amended to read:

17 25334. (a) Upon receipt of an application or upon its own
18 motion for designation of a transmission corridor zone, the board
19 shall arrange for the publication of a summary of the application
20 in a newspaper of general circulation in each county where the
21 proposed transmission corridor zone would be located, and shall
22 notify all property owners within, or adjacent to, the transmission
23 corridor zone. The department shall transmit a copy of the
24 application for designation to all cities, counties, and state and
25 federal agencies having an interest in the proposed transmission
26 corridor zone. The department shall publish the application for
27 designation on its Internet Web site, and notify members of the
28 public that the application is available on the department's Internet
29 Web site.

30 (b) As soon as practicable after the receipt of an application or
31 upon the board's motion for designation of a transmission corridor
32 zone, the department shall notify cities, counties, state and federal
33 agencies, and California Native American tribes in whose
34 jurisdictions the proposed transmission corridor zone would be
35 located regarding the proposed transmission corridor zone and the
36 objectives of the most recent strategic plan for the state's electric
37 transmission grid. The department's notice shall solicit information
38 from, and the department shall confer with, all interested cities,
39 counties, state and federal agencies, and California Native
40 American tribes regarding their land use plans, existing land uses,

1 and other factors in which they have expertise or interest with
2 respect to the proposed transmission corridor zone. The department
3 shall provide any interested city, county, state or federal agency,
4 California Native American tribe, or member of the public,
5 including any property owner within the proposed transmission
6 corridor zone, ample opportunity to participate in the board's
7 review of a proposed transmission corridor zone.

8 (c) The department shall request affected cities, counties, state
9 and federal agencies, the Independent System Operator, interested
10 California Native American tribes, and members of the public,
11 including any property owner within the proposed transmission
12 corridor zone, to provide comments on the suitability of the
13 proposed transmission corridor zone with respect to environmental,
14 public health and safety, land use, economic, and
15 transmission-system impacts or other factors on which they may
16 have expertise.

17 (d) The department shall require a person who files an
18 application for the designation of a transmission corridor zone to
19 pay a fee sufficient to reimburse the department for all costs
20 associated with reviewing the application. If the board initiates the
21 designation of a transmission corridor zone on its own motion, the
22 department shall fix the surcharge imposed pursuant to subdivision
23 (b) of Section 40016 of the Revenue and Taxation Code, at a level
24 sufficient to cover the department's added costs.

25 (e) Upon receiving the department's request for review of a
26 proposed transmission corridor zone, a city or county may request
27 a fee pursuant to Section 25538 to cover the actual and added costs
28 of this review and the department shall pay this amount to the city
29 or county.

30 SEC. 121. Section 25335 of the Public Resources Code is
31 amended to read:

32 25335. (a) Within 45 days of receipt of the application or
33 motion for designation, the board shall commence public
34 informational hearings in the county or counties where the
35 proposed transmission corridor zone would be located.

36 (b) The purpose of the hearings shall be to do all of the
37 following:

38 (1) Provide information about the proposed transmission corridor
39 zone so that the public and interested agencies have a clear
40 understanding of what is being proposed.

1 (2) Explain the relationship of the proposed transmission
2 corridor zone to the board's strategic plan for the state's electric
3 transmission grid, as set forth in the most recent integrated energy
4 policy report adopted pursuant to Chapter 4 (commencing with
5 Section 25300).

6 (3) Receive initial comments about the proposed transmission
7 corridor zone from the public and interested agencies.

8 (4) Solicit information on reasonable alternatives to the proposed
9 transmission corridor zone.

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

12 25336. (a) Within 155 days of the final informational hearing,
13 the board shall conduct a prehearing conference to determine the
14 issues to be considered in hearings pursuant to this section, to
15 identify the dates for the hearings, and to set forth filing dates for
16 public comments and testimony from the parties and interested
17 agencies. Within 15 days of the prehearing conference, the board
18 shall issue a hearing order setting forth the issues to be heard, the
19 dates of the hearings, and the filing dates for comments and
20 testimony.

21 (b) The board shall conduct hearings pursuant to the hearing
22 order. The purpose of the hearings shall be to receive information
23 upon which the board can make findings and conclusions pursuant
24 to Section 25337.

25 SEC. 123. Section 25337 of the Public Resources Code is
26 amended to read:

27 25337. After the conclusion of hearings conducted pursuant
28 to Section 25336, and no later than 180 days after the date of
29 certification of the environmental impact report prepared pursuant
30 to Section 25332, the board shall issue a proposed decision that
31 contains its findings and conclusions regarding all of the following
32 matters:

33 (a) Conformity of the proposed transmission corridor zone with
34 the strategic plan adopted pursuant to Section 25324.

35 (b) Suitability of the proposed transmission corridor zone with
36 respect to environmental, public health and safety, land use,
37 economic, and transmission-system impacts.

38 (c) Mitigation measures and alternatives as may be needed to
39 protect environmental quality, public health and safety, the state's
40 electric transmission grid, or any other relevant matter.

1 (d) Other factors that the board considers relevant.

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

4 25338. As soon as practicable after the board designates a
5 transmission corridor zone, the department shall post a copy of
6 the board's decision on the department's Internet Web site, send
7 a copy of the board's decision, including a description of the
8 transmission corridor zone, to each affected city, county, state
9 agency, and federal agency, and notify property owners within or
10 adjacent to the corridor of the availability of the decision on the
11 department's Internet Web site.

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

14 25339. After the board designates a transmission corridor zone,
15 the department shall identify that transmission corridor zone in its
16 subsequent strategic plans adopted by the board pursuant to Section
17 25324. The board shall regularly review and revise its designated
18 transmission corridor zones as necessary, but not less than once
19 every 10 years. In revising designations of transmission corridor
20 zones, the board shall follow the procedures of this chapter. If,
21 upon regular review or at any other time, the board finds that a
22 transmission corridor zone is no longer needed, the board shall
23 revise or repeal the designation and, as soon as practicable, notify
24 the affected cities, counties, state and federal agencies, and property
25 owners within, or adjacent to, the transmission corridor zone.

26 SEC. 126. Section 25340 of the Public Resources Code is
27 amended to read:

28 25340. After receiving notice from the department regarding
29 the designation or revision by the board of a transmission corridor
30 zone within its jurisdiction, each city or county shall consider the
31 designated transmission corridor zone when making a
32 determination regarding a land use change within or adjacent to
33 the transmission corridor zone that could affect its continuing
34 viability to accommodate a transmission line planned within the
35 transmission corridor zone. Nothing in this section shall preclude
36 compatible uses within or adjacent to a designated transmission
37 corridor zone.

38 SEC. 127. Section 25341 of the Public Resources Code is
39 amended to read:

1 25341. (a) Within a designated transmission corridor zone,
2 within 10 days of accepting as complete an application pursuant
3 to Section 65943 of the Government Code for a development
4 project that a city or county determines would threaten the potential
5 to construct a high-voltage electric transmission line, the city or
6 county shall notify the board of the proposed development project.
7 The notice shall include a copy of the application, and set a
8 deadline that is not less than 60 days from the date of the notice
9 for the board to provide written comments to the city or county
10 regarding the proposed development project.

11 (b) If the board finds that the proposed development project
12 would threaten the potential to construct a high-voltage electric
13 transmission line within the designated transmission corridor zone,
14 the board shall provide written comments to the city or county.
15 The board may recommend revisions to, redesign of, or mitigation
16 measures for the proposed development project that would
17 eliminate or reduce the threat.

18 (c) The city or county shall consider the board's comments, if
19 any, prior to acting on the proposed development project. If the
20 board objects to the proposed development project, the city or
21 county shall provide a written response that shall address in detail
22 why it did not accept the board's comments and recommendations.

23 SEC. 128. Section 25354 of the Public Resources Code is
24 amended to read:

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

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

38 (2) Major marketers shall report on petroleum product receipts
39 and the sources of these receipts, inventories of finished petroleum
40 products and blendstocks, by type, distributions through branded

1 and unbranded distribution networks, and exports of finished
2 petroleum products and blendstocks, by type, from the state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23 25356. (a) The department, utilizing its own staff and other
24 support staff having expertise and experience in, or with, the
25 petroleum industry, shall gather, analyze, and interpret the
26 information submitted to it pursuant to Section 25354 and other
27 information relating to the supply and price of petroleum products,
28 with particular emphasis on motor vehicle fuels, including, but not
29 limited to, all of the following:

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

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

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

37 (4) The prices, with particular emphasis on retail motor fuel
38 prices, including sales to unbranded retail markets, and any
39 significant changes in prices charged by the petroleum industry

1 for petroleum or petroleum products sold in California and the
2 reasons for those changes.

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

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

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

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

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

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

23 25357. The department shall obtain and analyze monthly
24 production reports prepared by the State Oil and Gas Supervisor
25 pursuant to Section 3227.

26 SEC. 131. Section 25358 of the Public Resources Code is
27 amended to read:

28 25358. (a) Within 70 days after the end of each preceding
29 quarter of each calendar year, the department shall publish and
30 submit to the Governor and the Legislature a summary, an analysis,
31 and an interpretation of the information submitted to it pursuant
32 to Section 25354 and information reviewed pursuant to Section
33 25357. This report shall be separate from the report submitted
34 pursuant to Section 25302. Any person may submit comments in
35 writing regarding the accuracy or sufficiency of the information
36 submitted.

37 (b) The department shall prepare a biennial assessment of the
38 information provided pursuant to this chapter and shall include its
39 assessment in the biennial fuels report prepared pursuant to Section
40 25310.

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

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

13 SEC. 132. Section 25362 of the Public Resources Code is
14 amended to read:

15 25362. (a) The department shall notify those persons who have
16 failed to timely provide the information specified in Section 25354.
17 If, within five days after being notified of the failure to provide
18 the specified information, the person fails to supply the specified
19 information, the person shall be subject to a civil penalty of not
20 less than five hundred dollars (\$500) nor more than two thousand
21 dollars (\$2,000) per day for each day the submission of information
22 is refused or delayed, unless the person has timely filed objections
23 with the department regarding the information and the department
24 has not yet held a hearing on the matter, or the department has
25 held a hearing and the person has properly submitted the issue to
26 a court of competent jurisdiction for review.

27 (b) Any person who willfully makes any false statement,
28 representation, or certification in any record, report, plan, or other
29 document filed with the department shall be subject to a civil
30 penalty not to exceed two thousand dollars (\$2,000).

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

34 SEC. 133. Section 25364 of the Public Resources Code is
35 amended to read:

36 25364. (a) A person required to present information to the
37 department pursuant to Section 25354 may request that specific
38 information be held in confidence. Information requested to be
39 held in confidence shall be presumed to be confidential.

1 (b) Information presented to the department pursuant to Section
2 25354 shall be held in confidence by the department or aggregated
3 to the extent necessary to ensure confidentiality if public disclosure
4 of the specific information or data would result in unfair
5 competitive disadvantage to the person supplying the information.

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

18 (2) The department shall consider the respondent's submittal
19 in determining whether to publicly disclose the information
20 submitted to it to which a claim of confidentiality is made. The
21 department shall issue a written decision that sets forth its reasons
22 for making the determination whether each item of information
23 for which a claim of confidentiality is made shall remain
24 confidential or shall be publicly disclosed.

25 (d) The department shall not make public disclosure of
26 information submitted to it pursuant to Section 25354 within 10
27 working days after the department has issued its written decision
28 required in this section.

29 (e) Information submitted to the department pursuant to Section
30 25354 shall not be deemed confidential if the person submitting
31 the information or data has made it public.

32 (f) With respect to petroleum products and blendstocks reported
33 by type pursuant to paragraph (1) or (2) of subdivision (a) of
34 Section 25354 and information provided pursuant to subdivision
35 (h) or (i) of Section 25354, neither the board members nor any
36 employee of the department may do any of the following:

37 (1) Use the information furnished under paragraph (1) or (2) of
38 subdivision (a) of Section 25354 or under subdivision (h) or (i) of
39 Section 25354 for any purpose other than the statistical purposes
40 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.

1 (2) Improved building design and insulation.

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

4 (4) Improved appliance efficiency.

5 (5) Advances in power generation and transmission technology.

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

8 (b) The department shall survey pursuant to this section all
9 forms of energy on which to base its recommendations to the
10 Governor and Legislature for elimination of waste or increases in
11 efficiency for sources or uses of energy. The department shall
12 transmit to the Governor and the Legislature, as part of the biennial
13 report specified in Section 25302, recommendations for state policy
14 and actions for the orderly development of all potential sources of
15 energy to meet the state's needs, including, but not limited to,
16 fossil fuels and solar, nuclear, and geothermal energy resources,
17 and to reduce wasteful and inefficient uses of energy.

18 SEC. 137. Section 25401.2 of the Public Resources Code is
19 amended to read:

20 25401.2. (a) As part of the report required by Section 25302,
21 the department shall develop and update an inventory of current
22 and potential cost-effective opportunities in each utility's service
23 territory, to improve efficiencies and to help utilities manage loads
24 in all sectors of natural gas and electricity use. The report shall
25 include estimates of the overall magnitude of these resources, load
26 shapes, and the projected costs associated with delivering the
27 various types of energy savings that are identified in the inventory.
28 The report shall also estimate the amount and incremental cost per
29 unit of potential energy efficiency and load management activities.
30 Where applicable, the inventory shall include data on variations
31 in savings and costs associated with particular measures. The report
32 shall take into consideration environmental benefits as developed
33 in related department and Public Utilities Commission proceedings.

34 (b) The department shall develop and maintain the inventory in
35 consultation with electric and gas utilities, the Public Utilities
36 Commission, academic institutions, and other interested parties.

37 (c) The department shall convene a technical advisory group to
38 develop an analytical framework for the inventory, to discuss the
39 level of detail at which the inventory would operate, and to ensure
40 that the inventory is consistent with other demand-side databases.

1 Privately owned electric and gas utilities shall provide financial
2 support, gather data, and provide analysis for activities that the
3 technical advisory group recommends. The technical advisory
4 group shall terminate on January 1, 1993.

5 SEC. 138. Section 25401.5 of the Public Resources Code is
6 amended to read:

7 25401.5. For the purpose of reducing electrical and natural gas
8 energy consumption, the department may develop and disseminate
9 measures that would enhance energy efficiency for single-family
10 residential dwellings that were built prior to the development of
11 the current energy efficiency standards. The measures, if developed
12 and disseminated, shall provide a homeowner with information to
13 improve the energy efficiency of a single-family residential
14 dwelling. The department may comply with this section by posting
15 the measures on the department's Internet Web site or by making
16 the measures available to the public, upon request.

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

19 25401.6. (a) In its administration of Section 25744, the
20 department shall establish a separate rebate for eligible distributed
21 emerging technologies for affordable housing projects, including,
22 but not limited to, projects undertaken pursuant to Section 50052.5,
23 50053, or 50199.4 of the Health and Safety Code. In establishing
24 the rebate, where the department determines that the occupants of
25 the housing shall have individual meters, the department may
26 adjust the amount of the rebate based on the capacity of the system,
27 provided that a system may receive a rebate only up to 75 percent
28 of the total installed costs. The department may establish a
29 reasonable limit on the total amount of funds dedicated for purposes
30 of this section.

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

33 SEC. 140. Section 25401.7 of the Public Resources Code is
34 amended to read:

35 25401.7. At the time a single-family residential dwelling is
36 sold, a buyer or seller may request a home inspection, as defined
37 in subdivision (a) of Section 7195 of the Business and Professions
38 Code, and a home inspector, as defined in subdivision (d) of
39 Section 7195 of the Business and Professions Code, shall provide

1 contact information for one or more of the following entities that
2 provide home energy information:

3 (a) A nonprofit organization.

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

6 (c) A government agency, including, but not limited to, the
7 department.

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

10 25401.9. (a) To the extent that funds are available, the board,
11 in consultation with the Department of Water Resources, shall
12 adopt by regulation, after holding one or more public hearings,
13 performance standards and labeling requirements for landscape
14 irrigation equipment, including, but not limited to, irrigation
15 controllers, moisture sensors, emission devices, and valves, for
16 the purpose of reducing the wasteful, uneconomic, inefficient, or
17 unnecessary consumption of energy or water.

18 (b) For the purposes of complying with subdivision (a), the
19 board shall do all of the following:

20 (1) Adopt performance standards and labeling requirements for
21 landscape irrigation controllers and moisture sensors on or before
22 January 1, 2010.

23 (2) Consider the Irrigation Association's Smart Water
24 Application Technology Program testing protocols when adopting
25 performance standards for landscape irrigation equipment,
26 including, but not limited to, irrigation controllers, moisture
27 sensors, emission devices, and valves.

28 (3) Prepare and submit a report to the Legislature, on or before
29 January 1, 2010, that sets forth a proposed schedule for adopting
30 performance standards and labeling requirements for emission
31 devices and valves.

32 (c) On and after January 1, 2012, an irrigation controller or
33 moisture sensor for landscape irrigation uses may not be sold or
34 installed in the state unless the controller or sensor meets the
35 performance standards and labeling requirements established
36 pursuant to this section.

37 SEC. 142. Section 25402 of the Public Resources Code is
38 amended to read:

39 25402. The board, with the support of the department, shall,
40 after one or more public hearings, do all of the following, in order

1 to reduce the wasteful, uneconomic, inefficient, or unnecessary
2 consumption of energy, including the energy associated with the
3 use of water:

4 (a) (1) Prescribe, by regulation, lighting, insulation climate
5 control system, and other building design and construction
6 standards that increase the efficiency in the use of energy and water
7 for new residential and new nonresidential buildings. The board
8 shall periodically update the standards and adopt any revision that,
9 in its judgment, it deems necessary. Six months after the board
10 certifies an energy conservation manual pursuant to subdivision
11 (c) of Section 25402.1, a city, county, city and county, or state
12 agency shall not issue a permit for any building unless the building
13 satisfies the standards prescribed by the board pursuant to this
14 subdivision or subdivision (b) that are in effect on the date an
15 application for a building permit is filed. Water efficiency standards
16 adopted pursuant to this subdivision shall be demonstrated by the
17 board to be necessary to save energy.

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

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

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

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

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

1 the proposed standard. The board shall take into consideration
2 prior to the start of the notice of proposed action any input provided
3 during these public meetings.

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

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

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

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

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

22 (2) A new appliance, except for any plumbing fitting, regulated
23 under paragraph (1), that is manufactured on or after July 1, 1984,
24 shall not be sold, or offered for sale, in the state, unless the date
25 of the manufacture is permanently displayed in an accessible place
26 on that appliance.

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

33 (4) Neither the board nor any other state agency shall take any
34 action to decrease any standard adopted under this subdivision on
35 or before June 30, 1985, prescribing minimum levels of operating
36 efficiency or other energy conservation measures for any appliance,
37 unless the board finds by a four-fifths vote that a decrease is of
38 benefit to ratepayers, and that there is significant evidence of
39 changed circumstances. Before January 1, 1986, the board shall
40 not take any action to increase a standard prescribing minimum

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

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

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

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

36 (D) Readopt a standard preempted, enjoined, or otherwise found
37 legally defective by an administrative agency or a lower court, if
38 final legal action determines that the standard is valid and if the
39 standard that is readopted is not more stringent than the standard
40 that was found to be defective or preempted.

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

4 (5) Notwithstanding paragraph (4), the board may adopt
5 standards pursuant to the former State Energy Resources
6 Conservation and Development Commission Order No. 84-0111-1,
7 on or before June 30, 1985.

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

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

20 (e) The board shall do all of the following:

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

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

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

33 SEC. 143. Section 25402.1 of the Public Resources Code is
34 amended to read:

35 25402.1. In order to implement the requirements of subdivisions
36 (a) and (b) of Section 25402, the department shall do all of the
37 following:

38 (a) Develop a public domain computer program that will enable
39 contractors, builders, architects, engineers, and government
40 officials to estimate the energy consumed by residential and

1 nonresidential buildings. The department may charge a fee for the
2 use of the program, which fee shall be based upon the actual cost
3 of the program, including any computer costs.

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

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

29 (d) Conduct a pilot project of field testing of actual residential
30 buildings to calibrate and identify potential needed changes in the
31 modeling assumptions to increase the accuracy of the public
32 domain computer program specified in subdivision (a) and to
33 evaluate the impacts of the standards, including, but not limited
34 to, the energy savings, cost effectiveness, and the effects on indoor
35 air quality. The pilot project shall be conducted pursuant to a
36 contract entered into by the department. The department shall
37 consult with the participants designated pursuant to Section 9202
38 of the Public Utilities Code to seek funding and support for field
39 monitoring in each public utility service territory, with the
40 University of California to take advantage of its extensive building

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

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

22 (1) The standards for energy conservation established by the
23 board.

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

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

27 (4) Any other information that the department finds will assist
28 persons in conforming to the standards.

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

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

33 (f) The department shall establish a continuing program of
34 technical assistance to local building departments in the
35 enforcement of subdivisions (a) and (b) of Section 25402 and this
36 section. The program shall include the training of local officials
37 in building technology and enforcement procedures related to
38 energy conservation, and the development of complementary
39 training programs conducted by local governments, educational
40 institutions, and other public or private entities. The technical

1 assistance program shall include the preparation and publication
2 of forms and procedures for local building departments in
3 performing the review of building plans and specifications. The
4 department shall provide, on a contract basis, a review of building
5 plans and specifications submitted by a local building department,
6 and shall adopt a schedule of fees sufficient to repay the cost of
7 those services.

8 (g) Subdivisions (a) and (b) of Section 25402 and this section,
9 and the rules and regulations of the board adopted pursuant thereto,
10 shall be enforced by the building department of every city, county,
11 or city and county.

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

19 (2) Where there is no local building department, the department
20 shall enforce subdivisions (a) and (b) of Section 25402 and this
21 section.

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

27 (4) A city, county, or city and county may, by ordinance or
28 resolution, prescribe a schedule of fees sufficient to pay the costs
29 incurred in the enforcement of subdivisions (a) and (b) of Section
30 25402 and this section. The department may establish a schedule
31 of fees sufficient to pay the costs incurred by that enforcement.

32 (5) Construction of a state building shall not commence until
33 the Department of General Services or the state agency that
34 otherwise has jurisdiction over the property reviews the plans for
35 the proposed building and certifies that the plans satisfy the
36 minimum standards established pursuant to Chapter 2.8
37 (commencing with Section 15814.30) of Part 10b of Division 3 of
38 Title 2 of the Government Code, Section 25402, and this section
39 which are applicable to the building.

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

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

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

37 (i) The department may exempt from the requirements of this
38 section and of any regulations adopted pursuant thereto any
39 proposed building for which compliance would be impossible
40 without substantial delays and increases in cost of construction, if

1 the department finds that substantial funds have been expended in
2 good faith on planning, designing, architecture, or engineering
3 prior to the date of adoption of the regulations.

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

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

15 SEC. 144. Section 25402.2 of the Public Resources Code is
16 amended to read:

17 25402.2. Any standard adopted by the board pursuant to
18 Sections 25402 and 25402.1, which is a building standard as
19 defined in Section 25488.5, shall be submitted to the State Building
20 Standards Commission for approval pursuant to, and is governed
21 by, the State Building Standards Law (Part 2.5 (commencing with
22 Section 18901) of Division 13 of the Health and Safety Code).
23 Building standards adopted by the board and published in the State
24 Building Standards Code shall be enforced as provided in Sections
25 25402 and 25402.1.

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

28 25402.3. For purposes of subdivision (e) of Section 25402.1,
29 the department shall contract with California building officials to
30 establish two regional training centers to provide continuing
31 education for local building officials and enforcement personnel
32 as follows:

33 (a) One site shall be located in northern California and one site
34 shall be located in southern California to serve the needs of the
35 respective regions.

36 (b) The centers shall provide training on a monthly basis to
37 ensure a uniform understanding and implementation of the
38 energy-efficient building standards. Existing resources shall be
39 used as much as possible by utilizing members of the building
40 official community in training activities.

1 (c) The centers shall provide similar training sessions, in the
2 form of workshops given in designated rural areas, to ensure that
3 adequate training is available throughout the state. The workshops
4 shall meet all of the following requirements:

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

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

12 SEC. 146. Section 25402.4 of the Public Resources Code is
13 amended to read:

14 25402.4. The standards for nonresidential buildings prescribed
15 by the board pursuant to subdivisions (a) and (b) of Section 25402
16 shall provide at least one option which uses passive or semipassive
17 thermal systems, as defined in Section 25600, for meeting the
18 prescribed energy use requirements. These systems may include,
19 but are not limited to, the following construction techniques:

20 (a) Use of skylights or other daylighting techniques.

21 (b) Use of openable windows or other means of using outside
22 air for space conditioning.

23 (c) Use of building orientation, to complement other passive or
24 semipassive thermal systems.

25 (d) Use of thermal mass, of structural or nonstructural type, for
26 storage of heat or cold, including, but not limited to, roof ponds
27 and water walls.

28 SEC. 147. Section 25402.5 of the Public Resources Code is
29 amended to read:

30 25402.5. (a) As used in this section, "lighting device" includes,
31 but is not limited to, a lamp, luminaire, light fixture, lighting
32 control, ballast, or any component of those devices.

33 (b) (1) The board shall consider both new and replacement,
34 and both interior and exterior, lighting devices as lighting which
35 is subject to subdivision (a) of Section 25402.

36 (2) The board shall include both indoor and outdoor lighting
37 devices as appliances to be considered in prescribing standards
38 pursuant to paragraph (1) of subdivision (c) of Section 25402.

39 (3) The Legislature hereby finds and declares that paragraphs
40 (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

1 meet the standards adopted pursuant to subdivision (a) within four
2 years of those standards being adopted.

3 (e) It is the intent of the Legislature to encourage the Regents
4 of the University of California, in coordination with the department,
5 to cease purchasing general purpose lights that do not meet the
6 standards adopted pursuant to subdivision (a), within two years of
7 those standards being adopted.

8 (f) (1) (A) For purposes of this section, “general purpose lights”
9 means lamps, bulbs, tubes, or other electric devices that provide
10 functional illumination for indoor residential, indoor commercial,
11 and outdoor use.

12 (B) General purpose lights do not include any of the following
13 types of specialty lighting: appliance, black light, bug, colored,
14 infrared, left-hand thread, marine, marine signal service, mine
15 service, plant light, reflector, rough service, shatter resistant, sign
16 service, silver bowl, showcase, three-way, traffic signal, and
17 vibration service or vibration resistant.

18 (2) The board may, after one or more public workshops, with
19 public notice and an opportunity for all interested parties to
20 comment, provide for inclusion of a particular type of specialty
21 light in its energy efficiency standards applicable to general
22 purpose lighting, if it finds that there has been a significant increase
23 in sales of that particular type of particular specialty light due to
24 the use of that specialty light in general purpose lighting
25 applications.

26 (3) General purpose lights do not include lights needed to
27 provide special-needs lighting for individuals with exceptional
28 needs.

29 SEC. 149. Section 25402.6 of the Public Resources Code is
30 amended to read:

31 25402.6. The department shall investigate options and develop
32 a plan to decrease wasteful peakload energy consumption in
33 existing residential and nonresidential buildings. On or before
34 January 1, 2004, the department shall report its findings to the
35 Legislature, including, but not limited to, any changes in law
36 necessary to implement the plan to decrease wasteful peakload
37 energy consumption in existing residential and nonresidential
38 buildings.

39 SEC. 150. Section 25402.7 of the Public Resources Code is
40 amended to read:

1 25402.7. (a) In consultation with the department, electric and
2 gas utilities shall provide support for building standards and other
3 regulations pursuant to Section 25402 and subdivision (b) of
4 Section 25553 including appropriate research, development, and
5 training to implement those standards and other regulations.

6 (b) The electric and gas utilities shall provide support pursuant
7 to subdivision (a) only to the extent that funds are made available
8 to the utilities for that purpose.

9 SEC. 151. Section 25402.8 of the Public Resources Code is
10 amended to read:

11 25402.8. When assessing new building standards for residential
12 and nonresidential buildings relating to the conservation of energy,
13 the board shall include in its deliberations the impact that those
14 standards would have on indoor air pollution problems.

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

17 25402.9. (a) On or before July 1, 1996, the department shall
18 develop, and by action of the board, publish an informational
19 booklet to educate and inform homeowners, rental property owners,
20 renters, sellers, brokers, and the general public about the statewide
21 home energy rating program adopted pursuant to Section 25942.

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

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

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

34 25403. The department shall submit to the Public Utilities
35 Commission and to any publicly owned electric utility,
36 recommendations designed to reduce wasteful, unnecessary, or
37 uneconomic energy consumption resulting from practices,
38 including, but not limited to, differential rate structures,
39 cost-of-service allocations, the disallowance of a business expense
40 of advertising or promotional activities that encourage the use of

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

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

9 25403.5. (a) The board shall, by July 1, 1978, adopt standards
 10 by regulation for a program of electrical load management for each
 11 utility service area. In adopting the standards, the board shall
 12 consider, but need not be limited to, the following load
 13 management techniques:

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

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

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

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

30 The board may determine that one or more of the load
 31 management techniques are infeasible and may delay their
 32 adoption. If the board determines that any techniques are infeasible
 33 to implement, it shall make a finding in each instance stating the
 34 grounds upon which the determination was made and the actions
 35 it intends to take to remove the impediments to implementation.

36 (c) The board may also grant, upon application by a utility, an
 37 exemption from the standards or a delay in implementation. The
 38 grant of an exemption or delay shall be accompanied by a statement
 39 of findings by the board indicating the grounds for the exemption
 40 or delay. Exemption or delay shall be granted only upon a showing

1 of extreme hardship, technological infeasibility, lack of cost
2 effectiveness, or reduced system reliability and efficiency.

3 (d) This section does not apply to proposed sites and related
4 facilities for which a notice of intent or an application requesting
5 certification has been filed with the board prior to the effective
6 date of the standards.

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

9 25403.8. (a) The department shall develop and implement a
10 program to provide battery backup power for those official traffic
11 control signals, operated by a city, county, or city and county, that
12 the department, in consultation with cities, counties, or cities and
13 counties, determines to be high priority traffic control signals.

14 (b) Based on traffic factors considered by cities, counties, or
15 cities and counties, including, but not limited to, traffic volume,
16 number of accidents, and presence of children, the department
17 shall determine a priority schedule for the installation of battery
18 backup power for traffic control systems. The department shall
19 give priority to a city, county, or city and county that did not
20 receive a grant from the State of California for the installation of
21 light-emitting diode traffic control signals.

22 (c) The department shall also develop or adopt the necessary
23 technical criteria as to wiring, circuitry, and recharging units for
24 traffic control signals. Only light-emitting diodes (LED) traffic
25 control signals are eligible for battery backup power for the full
26 operation of the traffic control signal or a flashing red mode. A
27 city, county, or city and county may apply for a matching grant
28 for battery backup power for traffic control signals retrofitted with
29 light-emitting diodes.

30 (d) Based on the criteria described in subdivision (c), the board
31 shall provide matching grants to cities, counties, and cities and
32 counties for backup battery systems described in this section in
33 accordance with the priority schedule established by the department
34 pursuant to subdivision (b). The board shall provide 70 percent of
35 the funds for a battery backup system, and the city, county, or city
36 and county shall provide 30 percent.

37 (e) If a city, county, or city and county has installed a backup
38 battery system for LED traffic control signals between January 1,
39 2001, and October 1, 2001, the board may reimburse the city,
40 county, or city and county for up to 30 percent of the cost incurred

1 for the backup battery system installation. However, the board
2 may not spend more than one million five hundred thousand dollars
3 (\$1,500,000) for reimbursements pursuant to this subdivision.

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

6 25404. The department shall cooperate with the Natural
7 Resources Agency and other interested parties in developing
8 procedures to ensure that mitigation measures to minimize
9 wasteful, inefficient, and unnecessary consumption of energy are
10 included in all environmental impact reports required on local
11 projects as specified in Section 21151.

12 SEC. 157. Section 25405.5 of the Public Resources Code is
13 amended to read:

14 25405.5. (a) As used in this section, the following terms have
15 the following meanings:

16 (1) “kW” means kilowatts or 1,000 watts, as measured from the
17 alternating current side of the solar energy system inverter
18 consistent with Section 223 of Title 15 of the United States Code.

19 (2) “Production home” means a single-family residence
20 constructed as part of a development of at least 50 homes per
21 project that is intended or offered for sale.

22 (3) “Solar energy system” means a solar energy device that has
23 the primary purpose of providing for the collection and distribution
24 of solar energy for the generation of electricity, that produces at
25 least one kW, and not more than five megawatts, alternating current
26 rated peak electricity, and that meets or exceeds the eligibility
27 criteria established pursuant to Section 25782.

28 (b) A seller of production homes shall offer a solar energy
29 system option to all customers that enter into negotiations to
30 purchase a new production home constructed on land for which
31 an application for a tentative subdivision map has been deemed
32 complete on or after January 1, 2011, and disclose the following:

33 (1) The total installed cost of the solar energy system option.

34 (2) The estimated cost savings associated with the solar energy
35 system option, as determined by the board pursuant to Chapter 8.8
36 (commencing with Section 25780) of Division 15.

37 (c) The Department of Energy shall develop an offset program
38 that allows a developer or seller of production homes to forgo the
39 offer requirement of this section on a project, by installing solar
40 energy systems generating specified amounts of electricity on other

1 projects, including, but not limited to, low-income housing,
2 multifamily, commercial, industrial, and institutional developments.
3 The amount of electricity required to be generated from solar
4 energy systems used as an offset pursuant to this subdivision shall
5 be equal to the amount of electricity generated by solar energy
6 systems installed on a similarly sized project within that climate
7 zone, assuming 20 percent of the prospective buyers would have
8 installed solar energy systems.

9 (d) The requirements of this section shall not operate as a
10 substitute for the implementation of existing energy efficiency
11 measures, and the requirements of this section shall not result in
12 lower energy savings or lower energy efficiency levels than would
13 otherwise be achieved by the full implementation of energy savings
14 and energy efficiency standards established pursuant to Section
15 25402.

16 SEC. 158. Section 25405.6 of the Public Resources Code is
17 amended to read:

18 25405.6. Not later than July 1, 2007, the department and the
19 board shall initiate a public proceeding to study and make findings
20 whether, and under what conditions, solar energy systems should
21 be required on new residential and new nonresidential buildings,
22 including the establishment of numerical targets. As part of the
23 study, the board may determine that a solar energy system should
24 not be required for any building unless the board determines, based
25 upon consideration of all costs associated with the system, that the
26 system is cost effective when amortized over the economic life of
27 the structure. When determining the cost-effectiveness of the solar
28 energy system, the board shall consider the availability of
29 governmental rebates, tax deductions, net metering, and other
30 quantifiable factors, if the board can determine the availability of
31 these financial incentives if a solar energy system is made
32 mandatory and not elective. The department shall periodically
33 update the study and incorporate any revision that the department
34 and the board determines is necessary, including revisions that
35 reflect changes in the financial incentives originally considered
36 by the board when determining cost-effectiveness of the solar
37 energy system. For purposes of this section, “solar energy system”
38 means a photovoltaic solar collector or other photovoltaic solar
39 energy device that has a primary purpose of providing for the
40 collection and distribution of solar energy for the generation of

1 electricity. This section is intended to be for study purposes only
2 and does not authorize the board to develop and adopt any
3 requirement for solar energy systems on either residential or
4 nonresidential buildings.

5 SEC. 159. Section 25410.5 of the Public Resources Code is
6 amended to read:

7 25410.5. The Legislature finds and declares all of the following:

8 (a) Energy costs are frequently the second largest discretionary
9 expense in a local government's budget. According to the
10 department, most public institutions could reduce their energy
11 costs by 20 to 30 percent.

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

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

18 (d) Local governments that desire to reduce their energy costs
19 through energy conservation and efficiency measures often lack
20 available funding.

21 (e) Since 1980, the Energy Conservation Assistance Account
22 has provided \$110 million in loans, through a revolving loan
23 account, to 600 schools, hospitals, and local governments. The
24 energy conservation projects funded by the account save
25 approximately \$35 million annually in energy costs.

26 (f) Local governments and public institutions need assistance
27 in all aspects of energy efficiency improvements, including, but
28 not limited to, project identification, project development and
29 implementation, evaluation of project proposals and options,
30 operations and maintenance, and troubleshooting of problem
31 projects.

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

34 25410.6. (a) It is the intent of the Legislature that the
35 department shall administer the State Energy Conservation
36 Assistance Account to provide grants and loans to local
37 governments and public institutions to maximize energy use
38 savings, including, but not limited to, technical assistance,
39 demonstrations, and identification and implementation of

1 cost-effective energy efficiency measures and programs in existing
2 and planned buildings or facilities.

3 (b) It is further the intent of the Legislature that the department
4 seek the assistance of utility companies in providing energy audits
5 for local governments and public institutions and in publicizing
6 the availability of State Energy Conservation Assistance Account
7 funds to qualified entities.

8 SEC. 161. Section 25412 of the Public Resources Code is
9 amended to read:

10 25412. Any eligible institution may submit an application to
11 the department for an allocation for the purpose of financing all
12 or a portion of the costs incurred in implementing a project. The
13 application shall be in the form and contain the information
14 incurred in implementing a project that the department shall
15 prescribe.

16 An application may be for the purpose of financing the eligible
17 institution's share of the costs that are to be jointly funded through
18 a state, local, or federal-local program.

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

21 25413. Applications may be approved by the department only
22 in those instances where the eligible institution has furnished
23 information satisfactory to the department that the costs of the
24 project, plus interest on state funds loaned, calculated in accordance
25 with Section 25415, will be recovered through savings in the cost
26 of energy to the institution during the repayment period of the
27 allocation.

28 The savings shall be calculated in a manner prescribed by the
29 department.

30 SEC. 163. Section 25414 of the Public Resources Code is
31 amended to read:

32 25414. Annually at the conclusion of each fiscal year, but not
33 later than October 31, each eligible institution that has received
34 an allocation pursuant to this chapter shall compute the cost of
35 energy saved as a result of implementing a project funded by the
36 allocation. The cost shall be calculated in a manner prescribed by
37 the department.

38 SEC. 164. Section 25415 of the Public Resources Code is
39 amended to read:

1 25415. (a) Each eligible institution to which an allocation has
2 been made under this chapter shall repay the principal amount of
3 the allocation, plus interest, in not more than 30 equal semiannual
4 payments, as determined by the department. The first semiannual
5 payment shall be made on or before December 22 of the fiscal
6 year following the year in which the project is completed. The
7 repayment period may not exceed the life of the equipment, as
8 determined by the department or the lease term of the building in
9 which the energy conservation measures will be installed.

10 (b) Notwithstanding any other provision of law, the department
11 shall, unless it determines that the purposes of this chapter would
12 be better served by establishing an alternative interest rate schedule,
13 periodically set interest rates on the loans based on surveys of
14 existing financial markets and at rates not less than 1 percent per
15 annum.

16 (c) The governing body of each eligible institution shall annually
17 budget an amount at least sufficient to make the semiannual
18 payments required in this section. The amount shall not be raised
19 by the levy of additional taxes but shall instead be obtained by a
20 savings in energy costs or other sources.

21 SEC. 165. Section 25416 of the Public Resources Code is
22 amended to read:

23 25416. (a) The State Energy Conservation Assistance Account
24 is hereby created in the General Fund. Notwithstanding Section
25 13340 of the Government Code, the account is continuously
26 appropriated to the department without regard to fiscal year.

27 (b) The money in the account shall consist of all money
28 authorized or required to be deposited in the account by the
29 Legislature and all money received by the department pursuant to
30 Sections 25414 and 25415.

31 (c) The money in the account shall be disbursed by the
32 Controller for the purposes of this chapter as authorized by the
33 department.

34 (d) The department may contract and provide grants for services
35 to be performed for eligible institutions. Services may include, but
36 are not limited to, feasibility analysis, project design, field
37 assistance, and operation and training. The amount expended for
38 those services may not exceed 10 percent of the unencumbered
39 balance of the account as determined by the department on July 1
40 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

1 and Economic Development Bank to raise funds to enable the
2 department to make loans to eligible institutions.

3 (4) Enter into loan agreements or other contracts necessary or
4 appropriate in connection with the pledge or sale of loans pursuant
5 to paragraph (2) or (3), or the borrowing of money as provided in
6 paragraph (1), containing any provisions that may be required by
7 the California Economic Development Financing Authority, the
8 California Infrastructure and Economic Development Bank, or the
9 department as conditions of issuing bonds to fund loans to, or the
10 purchase of loans from, the department.

11 (b) In connection with the pledging of loans, or of the principal
12 and interest payment on loans, pursuant to paragraph (2) of
13 subdivision (a), the department may enter into pledge agreements
14 setting forth the terms and conditions pursuant to which the
15 department is pledging loans or the principal and interest payment
16 on loans, and may also agree to have the loans held by bond
17 trustees or by independent collateral or escrow agents and to direct
18 that payments received on those loans be paid to those trustee,
19 collateral, or escrow agents.

20 (c) The department may employ financial consultants, legal
21 advisers, accountants, and other service providers, as may be
22 necessary in its judgment, in connection with activities pursuant
23 to this chapter.

24 (d) Notwithstanding any other provision of law, this chapter
25 provides a complete, separate, additional, and alternative method
26 for implementing the measures authorized by this chapter,
27 including the authority of the eligible institutions or local
28 jurisdictions to have borrowed and to borrow in the future pursuant
29 to loans made pursuant to this chapter or Chapter 5.4 (commencing
30 with Section 25440), and is supplemental and additional to powers
31 conferred by other laws.

32 SEC. 168. Section 25419 of the Public Resources Code is
33 amended to read:

34 25419. In addition to the powers specifically granted to the
35 department by the other provisions of this chapter, the department
36 shall have the following powers:

37 (a) To establish qualifications and priorities, consistent with the
38 objectives of this chapter, for making allocations.

39 (b) To establish procedures and policies as may be necessary
40 for the administration of this chapter.

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

3 25420. The department may expend from the State Energy
4 Conservation Assistance Account an amount to pay for the actual
5 administrative costs incurred by the department pursuant to this
6 chapter. The amount shall not exceed 5 percent of the annual
7 unencumbered balance in the account as determined by the
8 department on July 1 of each fiscal year, to be used to defray costs
9 incurred by the department for allocations made by the department
10 pursuant to this chapter.

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

13 25422. (a) Federal funds available to the department pursuant
14 to Chapter 5.6 (commencing with Section 25460) may be used by
15 the department to augment funding for grants and loans pursuant
16 to this chapter. Any federal funds used for loans shall, when repaid,
17 be deposited into the Energy Conservation Assistance Account
18 and used to make additional loans pursuant to this chapter.

19 (b) A separate subaccount shall be established within the Energy
20 Conservation Assistance Account to track the award and repayment
21 of loans from federal funds, including any interest earnings, in
22 accordance with the federal American Recovery and Reinvestment
23 Act of 2009 (Public Law 111-5).

24 SEC. 171. Section 25426 of the Public Resources Code is
25 amended to read:

26 25426. As used in this article, the following terms have the
27 following meanings:

28 (a) "Commercial refrigeration" means a refrigerator that is not
29 a federally regulated consumer product.

30 (b) "Energy-efficient model" means any appliance that meets
31 the efficiency standards of the United States Department of Energy
32 that are effective on and after July 1, 2001, and, if applicable,
33 products certified as energy-efficient zone heating products by the
34 board.

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

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

1 25433. It is the intent of the Legislature to establish incentives
2 in the form of grants and loans to low-income residents, small
3 businesses, and residential property owners for constructing and
4 retrofitting buildings to be more energy efficient by using design
5 elements, including, but not limited to, energy-efficient siding,
6 insulation, products certified as energy efficient zone heating
7 products by the board within the department, and double-paned
8 windows.

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

11 25433.5. (a) The department, in consultation with the Public
12 Utilities Commission, shall do both of the following for the purpose
13 of full or partial funding of an eligible construction or retrofit
14 project:

15 (1) Establish a grant program to provide financial assistance to
16 eligible low-income individuals.

17 (2) Establish a 2-percent interest per annum loan program to
18 provide financial assistance to a small business owner, residential
19 property owner, or individual who is not eligible for a grant
20 pursuant to paragraph (1). The loans shall be available to a small
21 business owner who has a gross annual income that does not exceed
22 one hundred thousand dollars (\$100,000) or to an individual or
23 residential property owner who has a gross annual household
24 income that does not exceed one hundred thousand dollars
25 (\$100,000).

26 (b) (1) The department shall use the design guidelines adopted
27 pursuant to paragraph (2) of subdivision (f) of Section 14 of
28 Chapter 8 of the Statutes of the First Extraordinary Session of 2001
29 as standards to determine eligible energy-efficiency projects.

30 (2) The award of a grant pursuant to this section is subject to
31 appeal to the department upon a showing that the department
32 applied factors, other than those adopted by the department, in
33 making the award.

34 (3) The grant or loan recipient shall commit to using the grant
35 or loan for the purpose for which the grant or loan was awarded.

36 (4) Any action taken by an applicant to apply for, or to become
37 or remain eligible to receive, a grant award, including satisfying
38 conditions specified by the department, does not constitute the
39 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:

1 25441. The department shall provide financial assistance to
2 local jurisdictions for the purpose of providing staff training and
3 support services, including, but not limited to, planning design,
4 permitting, energy conservation, comprehensive energy
5 management, project evaluation, and development of alternative
6 energy resources.

7 SEC. 178. Section 25442 of the Public Resources Code is
8 amended to read:

9 25442. The department shall provide loans to local jurisdictions
10 for all of the following purposes:

11 (a) Purchase, maintenance, and evaluation of energy-efficient
12 peak load reduction equipment for existing or planned facilities,
13 including, but not limited to, equipment related to lights, motors,
14 pumps, water and wastewater systems, boilers, heating, and air
15 conditioning.

16 (b) Purchase, maintenance, and evaluation of small power
17 production systems, including, but not limited to, wind,
18 cogeneration, photovoltaics, geothermal, and hydroelectric systems.

19 (c) Improvement of the operating efficiency of existing local
20 transportation systems.

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

23 25442.5. The department may award financial assistance for
24 project audits, feasibility studies, engineering and design, and legal
25 and financial analysis related to the purposes of Section 25442.

26 SEC. 180. Section 25442.7 of the Public Resources Code is
27 amended to read:

28 25442.7. (a) Loans under this article may not exceed five
29 million dollars (\$5,000,000) for any one local jurisdiction unless
30 the department determines that the public interest and objectives
31 of this chapter would be better served at a higher loan amount.

32 (b) Loan repayments shall be made in accordance with a
33 schedule established by the department. Repayment of loans shall
34 be made in full unless the department determines that the public
35 interest and objectives of this chapter would be better served by
36 negotiating a reduced loan repayment for a project that fails to
37 meet the technical or financial performance criteria through no
38 fault of the local jurisdiction.

39 SEC. 181. Section 25443 of the Public Resources Code is
40 amended to read:

1 25443. (a) Principal and interest payments on loans under this
2 article shall be returned to the department and shall be used to
3 make additional loans to local jurisdictions pursuant to Section
4 25442 or to provide financial assistance to local jurisdictions
5 pursuant to Section 25441.

6 (b) Notwithstanding any other provision of law, the department
7 shall, unless it determines that the purposes of this chapter would
8 be better served by establishing an alternative interest rate schedule,
9 periodically set interest rates on the loans based on surveys of
10 existing financial markets and at rates not less than 3 percent per
11 annum.

12 SEC. 182. Section 25443.5 of the Public Resources Code is
13 amended to read:

14 25443.5. (a) In furtherance of the purposes of the department
15 as set forth in this chapter, the department has the power and
16 authority to do all of the following:

17 (1) Borrow money, for the purpose of obtaining funds to make
18 loans pursuant to this chapter, from the California Economic
19 Development Financing Authority and the California Infrastructure
20 and Economic Development Bank from the proceeds of revenue
21 bonds issued by either of those agencies.

22 (2) Pledge, to provide collateral in connection with the
23 borrowing of money pursuant to paragraph (1), loans made
24 pursuant to this chapter or Chapter 5.2 (commencing with Section
25 25410), or the principal and interest payments on loans made
26 pursuant to this chapter or Chapter 5.2 (commencing with Section
27 25410).

28 (3) Sell loans made pursuant to this chapter or Chapter 5.2
29 (commencing with Section 25410), at prices determined in the
30 sole discretion of the department, to the California Economic
31 Development Financing Authority and the California Infrastructure
32 and Economic Development Bank to raise funds to enable the
33 department to make loans to eligible institutions.

34 (4) Enter into loan agreements or other contracts necessary or
35 appropriate in connection with the pledge or sale of loans pursuant
36 to paragraph (2) or (3), or the borrowing of money as provided in
37 paragraph (1), containing any provisions that may be required by
38 the California Economic Development Financing Authority, the
39 California Infrastructure and Economic Development Bank, or the

1 department as conditions of issuing bonds to fund loans to, or the
2 purchase of loans from, the department.

3 (b) In connection with the pledging of loans, or of the principal
4 and interest payment on loans, pursuant to paragraph (2) of
5 subdivision (a), the department may enter into pledge agreements
6 setting forth the terms and conditions pursuant to which the
7 department is pledging loans or the principal and interest payment
8 on loans, and may also agree to have the loans held by bond
9 trustees or by independent collateral or escrow agents and to direct
10 that payments received on those loans be paid to those trustee,
11 collateral, or escrow agents.

12 (c) The department may employ financial consultants, legal
13 advisers, accountants, and other service providers, as may be
14 necessary in its judgment, in connection with activities pursuant
15 to this chapter.

16 (d) Notwithstanding any other provision of law, this chapter
17 provides a complete, separate, additional, and alternative method
18 for implementing the measures authorized by this chapter,
19 including the authority of the eligible institutions or local
20 jurisdictions to have borrowed and to borrow in the future pursuant
21 to loans made pursuant to this chapter or Chapter 5.2 (commencing
22 with Section 25410), and is supplemental and additional to powers
23 conferred by other laws.

24 SEC. 183. Section 25445 of the Public Resources Code is
25 amended to read:

26 25445. The department shall design a local jurisdiction energy
27 assistance program for the purpose of providing financial assistance
28 under Article 2 (commencing with Section 25441) and providing
29 loans under Article 3 (commencing with Section 25442). A local
30 jurisdiction's energy assistance program shall be funded through
31 the department's existing local government assistance programs,
32 except that if a project is not eligible for funding under an existing
33 program, the department may fund the project under this chapter.

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

36 25449. (a) The department shall enter into an agreement with
37 the Regents of the University of California, the Trustees of the
38 California State University, and the Board of Governors of the
39 California Community Colleges for the expenditure of petroleum
40 violation escrow funds to supplement, and not supplant, other

1 available funds to improve energy efficiency at state-supported
2 universities and colleges under their respective jurisdictions by
3 funding projects involving any of the following:

- 4 (1) Data collection.
- 5 (2) Establishment of operations and maintenance standards.
- 6 (3) Staff training.
- 7 (4) Ongoing energy equipment maintenance.
- 8 (5) Projects involving heating, ventilation, air conditioning, and
9 lighting equipment.

10 (b) This section shall remain in effect only until January 1,
11 2014, and as of that date is repealed, unless a later enacted statute,
12 that is enacted before January 1, 2014, deletes or extends that date.

13 SEC. 185. Section 25449.1 of the Public Resources Code is
14 amended to read:

15 25449.1. The department shall enter into an agreement with
16 the State Department of Education to expend petroleum violation
17 escrow funds to supplement, and not supplant, other available
18 funds in order to provide loans to school districts to purchase,
19 maintain, and evaluate energy-efficient equipment and small power
20 production systems.

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

23 25449.2. Not later than three years after the imposition of any
24 fees pursuant to this chapter, the department shall report to the
25 Legislature in the biennial energy conservation report required by
26 Section 25401.1, on the effect of those fees on alternative public
27 and private financing for public sector programs.

28 SEC. 187. Section 25449.3 of the Public Resources Code is
29 amended to read:

30 25449.3. (a) The Local Jurisdiction Energy Assistance Account
31 is hereby created in the General Fund. All money appropriated for
32 purposes of this chapter and all money received from local
33 jurisdictions from loan repayments shall be deposited in the account
34 and disbursed by the Controller as authorized by the department.

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

37 (c) The department may contract for services to be performed
38 by eligible institutions, as defined in subdivision (c) of Section
39 25411. Those services may include, but are not limited to,
40 performance of a feasibility analysis, and providing project design,

1 field evaluation, and operation and training assistance. The amount
2 expended for contract services may not exceed 10 percent of the
3 annual scheduled loan repayment to the Local Jurisdiction Energy
4 Assistance Account, as determined by the department not later
5 than July 1 of each fiscal year.

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

8 25449.4. (a) Except as provided in subdivision (b), this chapter
9 shall remain in effect until January 1, 2011, and as of that date is
10 repealed, unless a later enacted statute which is enacted before
11 January 1, 2011, deletes or extends that date.

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

21 SEC. 189. Section 25450 of the Public Resources Code is
22 amended to read:

23 25450. (a) The Legislature finds and declares all of the
24 following:

25 (1) The cost of energy in California is increasing and creating
26 greater demands on local governments' operating budgets.

27 (2) The 110th Congress enacted the Energy Independence and
28 Security Act of 2007 (42 U.S.C. Sec. 17001 et seq.) that provides
29 energy efficiency and conservation block grants to eligible entities,
30 including states, to reduce fossil fuel emissions, improve energy
31 efficiency, and reduce overall energy use.

32 (3) Section 545(c)(1)(A) of the Energy Independence and
33 Security Act of 2007 (42 U.S.C. Sec. 17155(c)(1)(A)) mandates
34 that states receiving block grants under the act use not less than
35 60 percent of the grant amount to provide subgrants to local
36 governments that are not eligible entities for the purposes of the
37 act.

38 (4) The 111th Congress enacted the American Recovery and
39 Reinvestment Act of 2009 (Public Law 111-5) that appropriates
40 funds for energy efficiency and conservation, water conservation,

1 home weatherization, green workforce development, and renewable
2 energy.

3 (b) It is the intent of the Legislature to fully implement the
4 requirements for, and achieve the purposes of, the energy and
5 conservation block grants provided pursuant to the Energy
6 Independence and Security Act of 2007 and the American Recovery
7 and Reinvestment Act of 2009 (Public Law 111-5), in the most
8 expedient manner possible, and that the funds allocated to the state
9 pursuant to those acts be administered by the department.
10 Moreover, to the extent possible without causing undue delay, the
11 department shall look to the Energy Independence and Security
12 Act of 2007 and the American Recovery and Reinvestment Act
13 of 2009 programs and make policy decisions that leverage and
14 maximize the use of these dollars, including, but not limited to,
15 the areas of energy efficiency, renewable energy, water efficiency,
16 weatherization, and green workforce development.

17 (c) It is the intent of the Legislature to strive to maximize the
18 opportunity to allocate funds toward the most cost-effective energy
19 efficiency projects, and when allocating funds toward
20 administration, the department should use the allowable
21 administrative expenses specified in Section 545(c)(4) of the
22 Energy Independence and Security Act of 2007 (42 U.S.C. Sec.
23 17155(c)(4)) as a ceiling and improve efficiencies to allocate less
24 than the allowable amount.

25 SEC. 190. Section 25450.1 of the Public Resources Code is
26 amended to read:

27 25450.1. The department, by action of the board, shall
28 administer the funds allocated to and received by the state pursuant
29 to the Energy Independence and Security Act of 2007 (42 U.S.C.
30 Sec. 17001 et seq.) and the American Recovery and Reinvestment
31 Act of 2009 (Public Law 111-5) for the Energy Efficiency and
32 Conservation Block Grant Program established pursuant to Section
33 542 of the Energy Independence and Security Act of 2007 (42
34 U.S.C. Sec. 17152), and may use the federal funds to award
35 contracts, grants, and loans as expeditiously as possible consistent
36 with those acts.

37 SEC. 191. Section 25450.3 of the Public Resources Code is
38 amended to read:

39 25450.3. The department shall not exceed the amount specified
40 in Section 545(c)(4) of the Energy Independence and Security Act

1 of 2007 (42 U.S.C. Sec. 17155(c)(4)) for administrative expenses,
2 which include, but are not limited to, reporting, recordkeeping,
3 and evaluation activities required by the Energy Independence and
4 Security Act of 2007 (42 U.S.C. Section 17001 et seq.), the
5 American Recovery and Reinvestment Act of 2009 (Public Law
6 111-5), and implementing regulations and guidelines, that govern
7 or fund the Energy Efficiency and Conservation Block Grant
8 Program, and the combined administration program costs, indirect
9 costs, overhead, and costs associated with the Statewide Cost
10 Allocation Plan.

11 SEC. 192. Section 25450.4 of the Public Resources Code is
12 amended to read:

13 25450.4. The department, by action of the board, may award
14 contracts, grants, and loans pursuant to this chapter, unless
15 otherwise prohibited by the Energy Independence and Security
16 Act of 2007 (42 U.S.C. Sec. 17001 et seq.), the American Recovery
17 and Reinvestment Act of 2009 (Public Law 111-5), implementing
18 regulations and guidelines.

19 SEC. 193. Section 25450.5 of the Public Resources Code is
20 amended to read:

21 25450.5. (a) The department, by action of the board, may adopt
22 guidelines governing the award, eligibility, and administration of
23 funding pursuant to the American Recovery and Reinvestment Act
24 of 2009 (Public Law 111-5) at a publicly noticed meeting offering
25 all interested parties an opportunity to comment. The board shall
26 provide written public notice of not less than 30 days for the initial
27 adoption of guidelines. Substantive changes to the guidelines shall
28 not be adopted without 15-day written notice to the public.
29 Notwithstanding any other provision of law, any guidelines adopted
30 pursuant to this chapter shall be exempt from the requirements of
31 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
32 3 of Title 2 of the Government Code.

33 (b) Grants and loans made pursuant to this chapter are subject
34 to appeal to the board upon a showing that factors other than those
35 described in the guidelines adopted by the board were applied in
36 making the awards and payments.

37 SEC. 194. Section 25460 of the Public Resources Code is
38 amended to read:

39 25460. (a) The Legislature finds and declares that the 111th
40 Congress enacted the American Recovery and Reinvestment Act

1 of 2009 (Public Law 111-5) that appropriates funds for various
2 energy programs administered by the department.

3 (b) It is the intent of the Legislature that the department, by
4 action of the board, should have the authority to award contracts,
5 grants, and loans from funds received pursuant to the American
6 Recovery and Reinvestment Act of 2009 and to make the awards
7 as expeditiously as possible.

8 SEC. 195. Section 25461 of the Public Resources Code is
9 amended to read:

10 25461. (a) Except as provided in Chapter 5.5 (commencing
11 with Section 25450), the department shall administer federal funds
12 allocated to, and received by, the state for energy-related projects
13 pursuant to the American Recovery and Reinvestment Act of 2009
14 (Public Law 111-5) or federal acts related to the American
15 Recovery and Reinvestment Act of 2009.

16 (b) Unless otherwise prohibited by the American Recovery and
17 Reinvestment Act of 2009 (Public Law 111-5) or subsequent
18 federal acts related to the American Recovery and Reinvestment
19 Act of 2009, the department, by action of the board, may use the
20 federal funds to award contracts, grants, and loans for energy
21 efficiency, energy conservation, renewable energy, and other
22 energy-related projects and activities authorized by the American
23 Recovery and Reinvestment Act of 2009 or subsequent federal
24 acts related to the American Recovery and Reinvestment Act of
25 2009.

26 SEC. 196. Section 25462 of the Public Resources Code is
27 amended to read:

28 25462. (a) The department, by action of the board, may adopt
29 guidelines governing the award, eligibility, and administration of
30 funding pursuant to this chapter at a publicly noticed meeting
31 offering all interested parties an opportunity to comment. The
32 board shall provide written public notice of not less than 30 days
33 for the initial adoption of guidelines. Substantive changes to the
34 guidelines shall not be adopted without 15-day written notice to
35 the public. Notwithstanding any other provision of law, any
36 guidelines adopted pursuant to this chapter shall be exempt from
37 the requirements of Chapter 3.5 (commencing with Section 11340)
38 of Part 1 of Division 3 of Title 2 of the Government Code.

39 (b) Grants and loans made pursuant to this chapter are subject
40 to appeal to the board upon a showing that factors other than those

1 described in the guidelines adopted by the board were applied in
2 making the awards and payments.

3 SEC. 197. Section 25463 of the Public Resources Code is
4 amended to read:

5 25463. (a) Notwithstanding any other provision of this
6 division, federal funds available to the department pursuant to this
7 chapter may be used by the department, by action of the board, to
8 augment funding for any programs or measures authorized by this
9 division unless otherwise prohibited by the American Recovery
10 and Reinvestment Act of 2009 (Public Law 111-5). The department
11 may administer any funds used to augment other programs using
12 the procedures of the augmented program consistent with
13 applicable federal law.

14 (b) This section shall be liberally construed to maximize the
15 department's and the board's ability to utilize and award federal
16 funds expeditiously and in accordance with the American Recovery
17 and Reinvestment Act of 2009 or federal acts related to the
18 American Recovery and Reinvestment Act of 2009.

19 SEC. 198. Section 25470 of the Public Resources Code is
20 amended to read:

21 25470. As used in this chapter:

22 (a) "Act" means the federal American Recovery and
23 Reinvestment Act of 2009 (Public Law 111-5).

24 (b) "Allocation" means a loan of funds by the Department of
25 General Services pursuant to the procedures specified in this
26 chapter.

27 (c) "Building" means any existing structure that includes a
28 heating or cooling system, or both. Additions to an existing
29 building shall be considered part of that building rather than a
30 separate building.

31 (d) "Energy audit" means a determination of the energy
32 consumption characteristics of a building that does all of the
33 following:

34 (1) Identifies the type, size, and energy use level of the building
35 and the major energy using systems of the building.

36 (2) Determines appropriate energy conservation maintenance
37 and operating procedures.

38 (3) Indicates the need, if any, for the acquisition and installation
39 of energy conservation measures.

1 (e) “Energy conservation maintenance and operating procedure”
2 means a modification or modifications in the maintenance and
3 operations of a building, and any installations therein, based on
4 the use time schedule of the building that are designed to reduce
5 energy consumption in the building and that require no significant
6 expenditure of funds.

7 (f) “Energy conservation measure” means an installation or
8 modification of an installation in a building that is primarily
9 intended to reduce energy consumption or allow the use of a more
10 cost-effective energy source.

11 (g) “Energy conservation project” means an undertaking to
12 acquire and to install one or more energy conservation measures
13 in a building, and technical assistance in connection with that
14 undertaking.

15 (h) “Fund” means the Energy Efficient State Property Revolving
16 Fund.

17 (i) “Project” means a purpose for which an allocation may be
18 requested and made under this chapter. Those purposes shall
19 include energy audits, energy conservation and operating
20 procedures, and energy conservation measures in existing
21 buildings, and energy conservation projects.

22 (j) “State agency” means a unit of state government, including
23 any department, agency, board, or commission under the State of
24 California.

25 (k) “State-owned building” means a building that is primarily
26 occupied by offices or agencies of a unit of state government and
27 includes those properties owned by the State of California.

28 SEC. 199. Section 25471 of the Public Resources Code is
29 amended to read:

30 25471. (a) There is hereby created in the State Treasury the
31 Energy Efficient State Property Revolving Fund for the purpose
32 of implementing this chapter. Notwithstanding Section 13340 of
33 the Government Code, the money in this fund is continuously
34 appropriated to the Department of General Services, without regard
35 to fiscal years, for loans for projects on state-owned buildings and
36 facilities to achieve greater, long-term energy efficiency, energy
37 conservation, and energy cost and use avoidance.

38 (b) The fund shall be administered by the Department of General
39 Services. The Department of General Services may use other
40 funding sources to leverage project loans.

1 (c) For the 2009–10 fiscal year, the sum of twenty-five million
2 dollars (\$25,000,000) shall be transferred into the Energy Efficient
3 State Property Revolving Fund from money received by the
4 department pursuant to the act to be used for purposes of the federal
5 State Energy Program.

6 (d) The Controller shall disburse moneys in the fund for the
7 purposes of this chapter, as authorized by the Department of
8 General Services.

9 (e) Moneys in the fund, including all interest earnings, shall be
10 clearly delineated and distinctly accounted for in accordance with
11 the requirements of the act.

12 SEC. 200. Section 25472 of the Public Resources Code is
13 amended to read:

14 25472. (a) The Department of General Services, in consultation
15 with the department, shall establish a process by which projects
16 are identified and funding is allocated.

17 (b) Beginning July 1, 2009, the Department of General Services
18 shall use money in the fund for projects that will improve long-term
19 energy efficiency and increase energy use savings.

20 (c) The Department of General Services shall comply with the
21 requirements of the act and implementing guidelines of the
22 department, including, but not limited to, performance metrics,
23 data collection, and reporting. All projects must be consistent with
24 these requirements and guidelines.

25 (d) Funding prioritization shall be granted to those projects that
26 are cost-effective and will yield immediate and sustainable energy
27 efficiency, energy conservation, energy use cost savings, and cost
28 avoidance.

29 (e) The Department of General Services shall fund allowable
30 projects through a loan to the appropriate state agency or agencies
31 occupying the building or facility for which the project will be
32 performed.

33 (f) The Department of General Services shall determine a
34 reasonable loan repayment schedule that may not exceed the life
35 of the energy conservation measure equipment, as determined by
36 the Department of General Services, or the lease term of the
37 building in which the energy conservation measure is installed.

38 (g) Maximum loan amounts shall be based on estimated energy
39 cost savings that will allow state agencies to repay loan principal

1 and interest within the maximum repayment term specified in this
2 section.

3 (h) The Department of General Services shall periodically set
4 interest rates on the loans based on surveys of existing financial
5 markets and at rates of not less than 1 percent per annum.

6 (i) Annual loan repayment amounts shall be structured so as to
7 reflect the projected annualized energy cost avoidance estimated
8 from the completed project. The Department of General Services
9 may utilize a direct billing methodology to recover loan repayments
10 for completed projects.

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

13 25473. (a) On or before January 1, 2010, and annually
14 thereafter, the Department of General Services, in collaboration
15 with the department, shall submit to the Legislature's fiscal and
16 appropriate policy committees a report that includes an initial list
17 of projects identified and planned for the 2009–10 fiscal year, and
18 for each fiscal year thereafter. The report also shall include the
19 anticipated cost of each project, an analysis of the results of the
20 methodology, and an estimate of energy savings to be achieved.

21 (b) On or before July 1, 2010, the Department of General
22 Services, in collaboration with the department, shall submit to the
23 Legislature an update to the January 1, 2010, report.

24 SEC. 202. Section 25474 of the Public Resources Code is
25 amended to read:

26 25474. (a) Any repayment of loans made pursuant to this
27 chapter, including interest payments, and all interest earnings on
28 or accruing to, any money resulting from the implementation of
29 this chapter in the Energy Efficient State Property Revolving Fund,
30 shall be deposited in that fund and shall be available for the
31 purposes of this chapter.

32 (b) The Department of General Services may recover costs of
33 administering the projects and related costs through energy utility
34 rebates awarded to the state agency as a result of completed projects
35 up to 5 percent of the project loan amounts. Project costs can
36 include energy efficiency improvements and costs associated with
37 managing the project and administering the loan program, including
38 all reporting requirements.

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

1 25494. Not later than July 31, 1978, the department shall
2 prepare a manual outlining a methodology by which governmental
3 agencies and the general public may at their option compare the
4 lifecycle costs of various building design alternatives. This manual
5 will provide the information and procedures necessary to evaluate
6 a building's lifecycle costs in the microclimate and utility service
7 area where it is to be built.

8 SEC. 204. Section 25495 of the Public Resources Code is
9 amended to read:

10 25495. No later than July 31, 1978, the department shall
11 develop design guidelines for new construction which include
12 energy conserving options, including, but not limited to, the use
13 of daylighting, heating ventilation and air conditioning economizer
14 cycles, natural ventilation, building envelope solar heat gain control
15 mechanisms, and alternative energy systems such as solar energy
16 for space heating and water heating and load management
17 strategies. These guidelines and the cost analysis done pursuant
18 to Section 25494 may be considered by government agencies at
19 their option for ultimate selection of a building design in the
20 competitive bidding process.

21 SEC. 205. Section 25496 of the Public Resources Code is
22 amended to read:

23 25496. No later than July 1, 1978, the department shall develop
24 and make available to government agencies and the general public
25 to be utilized at their option lighting standards for existing
26 buildings. These standards shall address, but not be limited to, task
27 and general area lighting levels, light switching and control
28 mechanisms, and lighting energy budgets. The department may
29 provide advice and recommendations to the public or any
30 governmental agency as to the standards.

31 ~~SEC. 206. Chapter 5.10 (commencing with Section 25499) is~~
32 ~~added to Division 15 of the Public Resources Code, to read:~~

33
34 ~~CHAPTER 5.10. LOW-INCOME ENERGY ASSISTANCE AND~~
35 ~~COMMUNITY SERVICES~~
36

37 ~~25499. (a) The Legislature finds and declares all of the~~
38 ~~following:~~

39 ~~(1) Low-income energy assistance programs, including the Low~~
40 ~~Income Home Energy Assistance Program (LIHEAP) and the~~

~~1 Weatherization Assistance Program (WAP), and Community
2 Service Block Grant program are administered in California
3 through a statewide network of community-based organizations,
4 including public and private nonprofit agencies, that serve as local
5 service providers for a comprehensive suite of assistance programs
6 designed to ameliorate the causes and impacts of poverty.~~

~~7 (2) The network of local service providers work closely with
8 their fellow nonprofit agencies as well as the private sector to meet
9 the disparate needs of low-income individuals and families by
10 providing a variety of interrelated services, including home energy,
11 nutrition, housing, and employment.~~

~~12 (3) Unlike various other energy conservation and energy
13 efficiency programs administered by the state, the state's LIHEAP
14 and WAP are designed specifically to meet the energy-related
15 health and safety needs of low-income individuals and families.~~

~~16 (b) It is the intent of the Legislature to ensure that these energy
17 and community service programs funded by federal block grants
18 continue to be administered by a single entity that will maintain
19 and support the provision of a comprehensive suite of assistance
20 services to low-income individuals and families and that the
21 positive impact of these programs on the target population of
22 low-income individuals and families not be diluted or redirected
23 to other purposes.~~

~~24 25499.1. The programs transferred pursuant to subdivision (d)
25 of Section 25202 shall be identified as a separate line item in the
26 annual Budget Act.~~

~~27 25499.2. The department shall administer the programs and
28 activities transferred pursuant to subdivision (d) of Section 25202
29 in compliance with Article 1.7 (commencing with Section 16366.1)
30 of Chapter 2 of Part 2 of Division 4 of, and Chapter 9 (commencing
31 with Section 12725) of Part 2 of Division 3 of, Title 2 of the
32 Government Code. This chapter does not authorize the use of
33 federal block grant funds in a manner that is inconsistent with
34 federal law or state law, including Section 12758 of the
35 Government Code.~~

~~36 SEC. 207. Section 25500 of the Public Resources Code is
37 amended to read:~~

~~38 25500. In accordance with the provisions of this division, the
39 board shall have the exclusive power to certify all sites and related
40 facilities in the state, whether a new site and related facility or a~~

1 change or addition to an existing facility. The issuance of a
2 certificate by the board shall be in lieu of any permit, certificate,
3 or similar document required by any state, local or regional agency,
4 or federal agency to the extent permitted by federal law, for such
5 use of the site and related facilities, and shall supersede any
6 applicable statute, ordinance, or regulation of any state, local, or
7 regional agency, or federal agency to the extent permitted by
8 federal law.

9 After the effective date of this division, no construction of any
10 facility or modification of any existing facility shall be commenced
11 without first obtaining certification for any such site and related
12 facility by the commission, as prescribed in this division.

13 SEC. 208. Section 25500.5 of the Public Resources Code is
14 amended to read:

15 25500.5. The board shall certify sufficient sites and related
16 facilities that are required to provide a supply of electric power
17 sufficient to accommodate the demand projected in the most recent
18 forecast of statewide and regional electric power demands
19 forecasted pursuant to Section 25303.

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

22 25501. This chapter does not apply to any site or related facility
23 that was not subject to this chapter prior to January 1, 2011, and
24 that as of July 1, 2011, has an application accepted as complete
25 by the agency with jurisdiction on or before December 31, 2010.

26 SEC. 210. Section 25501.7 of the Public Resources Code is
27 amended to read:

28 25501.7. A person proposing to construct a facility or a site
29 to which Section 25501 applies may waive the exclusion of the
30 site and related facility from the provisions of this chapter by
31 submitting to the department a notice to that effect on or after July
32 1, 1976, and any and all of the provisions of this chapter shall
33 apply to the construction of the facility.

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

36 25502. (a) Each person proposing to construct a thermal
37 powerplant or electric transmission line on a site shall submit to
38 the department a notice of intention to file an application for the
39 certification of the site and related facility or facilities. The notice
40 shall be an attempt primarily to determine the suitability of the

1 proposed sites to accommodate the facilities and to determine the
2 general conformity of the proposed sites and related facilities with
3 standards of the board and assessments of need adopted pursuant
4 to Sections 25305 to 25308, inclusive. The notice shall be in the
5 form prescribed by the department and shall be supported by
6 information that the board may require.

7 (b) Any site and related facility once found to be acceptable
8 pursuant to Section 25516 is, and shall continue to be, eligible for
9 consideration in an application for certification without further
10 proceedings required for a notice under this chapter.

11 SEC. 212. Section 25502.3 of the Public Resources Code is
12 amended to read:

13 25502.3. Except as provided in Section 25501.7, a person
14 proposing to construct a facility excluded from this chapter may
15 waive that exclusion by submitting to the department a notice of
16 intention to file an application for certification, and any and all of
17 the provisions of this chapter shall apply to the construction of that
18 facility.

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

21 25504. The notice of intention shall include a statement by the
22 applicant describing the location of the proposed sites by section
23 or sections, range and township, and county; a summary of the
24 proposed design criteria of the facilities; the type or types of fuels
25 to be used; the methods of construction and operation; the proposed
26 location of facilities and structures on each site; a preliminary
27 statement of the relative economic, technological, and
28 environmental advantages and disadvantages of the alternative site
29 and related facility proposals; a statement of need for the facility
30 and information showing the compatibility of the proposals with
31 the most recent electricity report issued pursuant to Section 25308;
32 and any other information that an electric utility deems desirable
33 to submit to the department.

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

36 25504.5. An applicant may, in the notice, propose a site to be
37 approved that will accommodate a potential maximum electric
38 generating capacity in excess of the capacity being proposed for
39 the initial approval of the board. If this proposal is made, the notice

1 shall include, but not be limited to, in addition to the information
2 specified in Section 25504, all of the following:

3 (a) The number, type, and energy source of electric generating
4 units that the site is proposed ultimately to accommodate and the
5 maximum generating capacity for each unit.

6 (b) The projected installation schedule for each unit.

7 (c) The impact at the site, when fully developed, on the
8 environment and public health and safety.

9 (d) The amount and sources of cooling water needed at the fully
10 developed site.

11 (e) The location and specifications of auxiliary facilities planned
12 for each state of development including, but not limited to,
13 pipelines, waste storage facilities, fuel storage facilities,
14 switchyards, coolant lines, coolant outfalls, and cooling ponds,
15 lakes, or towers.

16 SEC. 215. Section 25505 of the Public Resources Code is
17 amended to read:

18 25505. Upon receipt of a notice, the department shall cause a
19 summary of the notice to be published in a newspaper of general
20 circulation in each county in which the sites and related facilities,
21 or any part thereof, designated in the notice are proposed to be
22 located. The department shall also transmit a copy of the notice to
23 the Public Utilities Commission, for sites and related facilities
24 requiring a certificate of public convenience and necessity, and to
25 other federal, state, regional, and local agencies having an interest
26 in matters pertinent to the proposed facilities at any of the
27 alternative sites. A copy of the notice shall also be transmitted to
28 the Attorney General.

29 SEC. 216. Section 25506 of the Public Resources Code is
30 amended to read:

31 25506. The department shall request the appropriate local,
32 regional, state, and federal agencies to make comments and
33 recommendations regarding the design, operation, and location of
34 the facilities designated in the notice, in relation to environmental
35 quality, public health and safety, and other factors on which they
36 may have expertise.

37 SEC. 217. Section 25506.5 of the Public Resources Code is
38 amended to read:

39 25506.5. The department shall request the Public Utilities
40 Commission, for sites and related facilities requiring a certificate

1 of public convenience and necessity, to make comments and
2 recommendations regarding the design, operation, and location of
3 the facilities designated in the notice in relation to the economic,
4 financial, rate, system reliability, and service implications of the
5 proposed facilities.

6 SEC. 218. Section 25507 of the Public Resources Code is
7 amended to read:

8 25507. (a) If any alternative site and related facility proposed
9 in the notice is proposed to be located, in whole or in part, within
10 the coastal zone, the department shall transmit a copy of the notice
11 to the California Coastal Commission. The California Coastal
12 Commission shall analyze the notice and prepare the report and
13 findings prescribed by subdivision (d) of Section 30413 prior to
14 commencement of hearings pursuant to Section 25513.

15 (b) If any alternative site and related facility proposed in the
16 notice is proposed to be located, in whole or in part, within the
17 Suisun Marsh, or within the jurisdiction of the San Francisco Bay
18 Conservation and Development Commission, the department shall
19 transmit a copy of the notice to the San Francisco Bay Conservation
20 and Development Commission. The San Francisco Bay
21 Conservation and Development Commission shall analyze the
22 notice and prepare the report and findings prescribed by subdivision
23 (d) of Section 66645 of the Government Code prior to
24 commencement of hearings pursuant to Section 25513.

25 SEC. 219. Section 25508 of the Public Resources Code is
26 amended to read:

27 25508. The department shall cooperate with, and render advice
28 to, the California Coastal Commission and the San Francisco Bay
29 Conservation and Development Commission in studying
30 applications for any site and related facility proposed to be located,
31 in whole or in part, within the coastal zone, the Suisun Marsh, or
32 the jurisdiction of the San Francisco Bay Conservation and
33 Development Commission if requested by the California Coastal
34 Commission or the San Francisco Bay Conservation and
35 Development Commission, as the case may be. The California
36 Coastal Commission or the San Francisco Bay Conservation and
37 Development Commission, as the case may be, may participate in
38 public hearings on the notice and on the application for site and
39 related facility certification as an interested party in the
40 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.

1 SEC. 222. Section 25510 of the Public Resources Code is
2 amended to read:

3 25510. After the conclusion of the hearings pursuant to Section
4 25509.5, and no later than 150 days after filing of the notice, the
5 department shall prepare and make public a summary and hearing
6 order on the notice of intention to file an application. The
7 department may include within the summary and hearing order
8 any other alternatives proposed by the board or presented to the
9 board at a public hearing prior to preparation of the summary and
10 hearing order. The summary and hearing order shall be published
11 and made available to the public and to interested local, regional,
12 state, and federal agencies.

13 SEC. 223. Section 25511 of the Public Resources Code is
14 amended to read:

15 25511. The department and the board shall review the factors
16 related to safety and reliability of the facilities at each of the
17 alternative sites designated in the notice. In addition to other
18 information requested of the applicant, the board shall, in
19 determining the appropriateness of sites and related facilities,
20 require detailed information on proposed emergency systems and
21 safety precautions, plans for transport, handling and storage of
22 wastes and fuels, proposed methods to prevent illegal diversion
23 of nuclear fuels, special design features to account for seismic and
24 other potential hazards, proposed methods to control density of
25 population in areas surrounding nuclear powerplants, and any other
26 information that the board may determine to be relevant to the
27 reliability and safety of the facility at the proposed sites. The board
28 shall analyze the information provided by the applicant,
29 supplementing it, where necessary, by onsite investigations and
30 other studies. The board shall determine the adequacy of measures
31 proposed by the applicant to protect public health and safety, and
32 shall include its findings in the final report required by Section
33 25514.

34 SEC. 224. Section 25512 of the Public Resources Code is
35 amended to read:

36 25512. (a) The summary and hearing order shall be based
37 upon the record of the proceeding including statements or
38 documents presented during any hearing or informational
39 presentation on the notice, the comments transmitted by the Public
40 Utilities Commission and local, regional, state, and federal agencies

1 and the public to the department and the board, and independent
2 studies conducted by the department's staff.

3 (b) The summary and hearing order shall:

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

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

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

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

12 (5) Specify dates for the adjudicatory hearings.

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

15 25513. No earlier than 30 days after distribution of the
16 summary and hearing order, the board shall commence adjudicatory
17 hearings pursuant to the hearing order.

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

20 25513.3. Notwithstanding Sections 11425.30 and 11430.10 of
21 the Government Code, unless a party demonstrates other statutory
22 grounds for disqualification, a person who has served as
23 investigator or advocate in an adjudicative proceeding of the board
24 under this code may serve as a supervisor of the presiding officer
25 or assist or advise the presiding officer of the board in the same
26 proceeding if the service, assistance, or advice occurs more than
27 one year after the time the person served as investigator or advocate
28 and if the content of any advice is disclosed on the record and all
29 parties have an opportunity to comment on the advice.

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

32 25514. After conclusion of the hearings held pursuant to
33 Section 25513 and no later than 300 days after the filing of the
34 notice, a final report shall be prepared and distributed. The final
35 report shall include, but not be limited to, all of the following:

36 (a) The findings and conclusions of the board regarding the
37 conformity of alternative sites and related facilities designated in
38 the notice or considered in the notice of intention proceeding with
39 both of the following:

1 (1) The 12-year forecast of statewide and service area electric
2 power demands adopted pursuant to subdivision (e) of Section
3 25305, except as provided in Section 25514.5.

4 (2) Applicable local, regional, state, and federal standards,
5 ordinances, and laws, including any long-range land use plans or
6 guidelines adopted by the state or by any local or regional planning
7 agency, which would be applicable but for the exclusive authority
8 of the board to certify sites and related facilities; and the standards
9 adopted by the board pursuant to Section 25216.3.

10 (b) Any findings and comments submitted by the California
11 Coastal Commission pursuant to Section 25507 and subdivision
12 (d) of Section 30413.

13 (c) Any findings and comments submitted by the San Francisco
14 Bay Conservation and Development Commission pursuant to
15 Section 25507 of this code and subdivision (d) of Section 66645
16 of the Government Code.

17 (d) The board's findings on the acceptability and relative merit
18 of each alternative siting proposal designated in the notice or
19 presented at the hearings and reviewed by the board. The specific
20 findings of relative merit shall be made pursuant to Sections 25502
21 to 25516, inclusive. In its findings on any alternative siting
22 proposal, the board may specify modification in the design,
23 construction, location, or other conditions that will meet the
24 standards, policies, and guidelines established by the board.

25 (e) Findings and conclusions with respect to the safety and
26 reliability of the facility or facilities at each of the sites designated
27 in the notice, as determined by the board pursuant to Section 25511,
28 and any conditions, modifications, or criteria proposed for any site
29 and related facility proposal resulting from the findings and
30 conclusions.

31 (f) Findings and conclusions as to whether increased property
32 taxes due to the construction of the project are sufficient to support
33 needed local improvements and public services required to serve
34 the project.

35 SEC. 228. Section 25514.3 of the Public Resources Code is
36 amended to read:

37 25514.3. In specifying any modifications, conditions, or criteria
38 pursuant to Section 25514, for sites and related facilities requiring
39 a certificate of public convenience and necessity, the board shall
40 request the comments and recommendations of the Public Utilities

1 Commission on the economic, financial, rate, system reliability,
2 and service implications of the modifications, conditions, or
3 criteria.

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

6 25514.5. In considering the acceptability of a site proposed to
7 accommodate ultimately additional power-generating capacity,
8 the board, in determining, pursuant to Sections 25514 and 25512,
9 the conformity of the facilities proposed in the notice with the
10 12-year forecast of statewide and service area electric power
11 demands adopted pursuant to subdivision (e) of Section 25305,
12 shall base its determination only on such initial facilities as are
13 proposed for operation within the forthcoming 12-year period.
14 Additional facilities projected to be operating at the site at a time
15 beyond the forthcoming 12-year period shall not be considered in
16 the determination of conformity with the electric power demand
17 forecast.

18 SEC. 230. Section 25516 of the Public Resources Code is
19 amended to read:

20 25516. (a) The approval of the notice by the board shall be
21 based upon findings pursuant to Section 25514. The notice shall
22 not be approved unless the board finds at least two alternative site
23 and related facility proposals considered in the board's final report
24 as acceptable. If the board does not find at least two sites and
25 related facilities acceptable, additional sites and related facilities
26 may be proposed by the applicant, which shall be considered in
27 the same manner as those proposed in the original notice.

28 (b) If the board finds that a good faith effort has been made by
29 the person submitting the notice to find an acceptable alternative
30 site and related facility and that there is only one acceptable site
31 and related facility among those submitted, the board may approve
32 the notice based on the one site and related facility. If a notice is
33 approved based on one site and related facility, the board may
34 require a new notice to be filed to identify acceptable alternative
35 sites and related facilities for the one site and related facility
36 approved unless suitable alternative sites and related facilities have
37 been approved by the board in previous notice of intention
38 proceedings.

39 (c) If the board finds that additional electric generating capacity
40 is needed to accommodate the electric power demand forecast

1 pursuant to subdivision (e) of Section 25305 and, after the board
2 finds that a good faith effort was made by the person submitting
3 the notice to propose an acceptable site and related facility, it fails
4 to find any proposed site and related facility to be acceptable, the
5 board shall designate, at the request of and at the expense of the
6 person submitting the notice, a feasible site and related facility for
7 providing the needed electric generating capacity.

8 SEC. 231. Section 25516.1 of the Public Resources Code is
9 amended to read:

10 25516.1. If a site and related facility found to be acceptable by
11 the board pursuant to Section 25516 is located in the coastal zone,
12 the Suisun Marsh, or the jurisdiction of the San Francisco Bay
13 Conservation and Development Commission, an application for
14 certification shall not be filed pursuant to Section 25519 unless
15 the board has determined, pursuant to Section 25514, that the site
16 and related facility have greater relative merit than available
17 alternative sites and related facilities for an applicant's service
18 area that have been determined to be acceptable by the board
19 pursuant to Section 25516.

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

22 25516.5. (a) On a notice that proposes an expanded ultimate
23 electric generating capacity for a site, the board may, based upon
24 findings pursuant to Section 25514, either approve the notice only
25 for the initial facility or facilities proposed for operation within
26 the forthcoming 12-year period or may approve the notice for the
27 initial facility or facilities and find the site acceptable for additional
28 generating capacity of the type tentatively proposed. The maximum
29 allowable amount and type of additional capacity shall be
30 determined by the board.

31 (b) If a notice is approved that includes a finding that a particular
32 site is suitable to accommodate a particular additional generating
33 capacity, the site shall be designated a potential multiple-facility
34 site. The board may, in determining the acceptability of a potential
35 multiple-facility site, specify conditions or criteria necessary to
36 insure that future additional facilities will not exceed the limitations
37 of the site.

38 SEC. 233. Section 25516.6 of the Public Resources Code is
39 amended to read:

1 25516.6. (a) Except as otherwise expressly provided in this
2 division, the board shall issue its written decision on the notice
3 not later than 12 months after the notice is filed, or at any later
4 time as is mutually agreed upon by the board and the applicant.

5 (b) The board shall determine, within 45 days after it receives
6 the notice, whether the notice is complete. If the board determines
7 that the notice is complete, the notice shall be deemed filed for the
8 purpose of this section on the date that this determination is made.
9 If the board determines that the notice is incomplete, the board
10 shall specify, in writing, those parts of the notice that are
11 incomplete and shall indicate the manner in which it can be made
12 complete. If the applicant submits additional data to complete the
13 notice, the board shall determine, within 30 days after receipt of
14 that data, whether the data is sufficient to make the notice complete.
15 The notice shall be deemed filed on the date the board determines
16 the notice is complete if the board has adopted regulations
17 specifying the informational requirements for a complete notice,
18 but if the board has not adopted regulations, the notice shall be
19 deemed filed on the last date the board receives any additional
20 data that completes the notice.

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

23 25517. Except as provided in Section 25501, construction of
24 a thermal powerplant or electric transmission line shall not be
25 commenced by any electric utility without first obtaining
26 certification as prescribed in this division. Any onsite
27 improvements not qualifying as construction may be required to
28 be restored as determined by the board to be necessary to protect
29 the environment, if certification is denied.

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

32 25518. The Public Utilities Commission shall not issue a
33 certificate of public convenience and necessity for a site or related
34 electrical facilities unless the utility has obtained a certificate from
35 the board.

36 SEC. 236. Section 25519 of the Public Resources Code is
37 amended to read:

38 25519. (a) In order to obtain certification for a site and related
39 facility, an application for certification of the site and related
40 facility shall be filed with the department. The application shall

1 be in a form prescribed by the board and shall be for a site and
2 related facility that has been found to be acceptable by the board
3 pursuant to Section 25516, or for an additional facility at a site
4 that has been designated a potential multiple-facility site pursuant
5 to Section 25514.5 and found to be acceptable pursuant to Sections
6 25516 and 25516.5. An application for an additional facility at a
7 potential multiple-facility site shall be subject to the conditions
8 and review specified in Section 25520.5. An application shall not
9 be filed for a site and related facility if there is no suitable
10 alternative for the site and related facility that was previously found
11 to be acceptable by the board, unless the board has approved the
12 notice based on the one site as specified in Section 25516.

13 (b) The board, upon its own motion or in response to the request
14 of any party, may require the applicant to submit any information,
15 document, or data, in addition to the attachments required by
16 subdivision (i), that it determines is reasonably necessary to make
17 any decision on the application.

18 (c) The department shall be the lead agency as provided in
19 Section 21165 for all projects that require certification pursuant
20 to this chapter and for projects that are exempted from such
21 certification pursuant to Section 25541. Unless the department's
22 regulatory program governing site and facility certification and
23 related proceedings are certified by the Natural Resources Agency
24 pursuant to Section 21080.5, an environmental impact report shall
25 be completed within one year after receipt of the application. If
26 the department prepares a document or documents in the place of
27 an environmental impact report or negative declaration under a
28 regulatory program certified pursuant to Section 21080.5, any
29 other public agency that must make a decision that is subject to
30 the California Environmental Quality Act, Division 13
31 (commencing with Section 21000), on a site or related facility,
32 shall use the document or documents prepared by the department
33 in the same manner as they would use an environmental impact
34 report or negative declaration prepared by a lead agency.

35 (d) If the site and related facility specified in the application is
36 proposed to be located in the coastal zone, the department shall
37 transmit a copy of the application to the California Coastal
38 Commission for its review and comments.

39 (e) If the site and related facility specified in the application is
40 proposed to be located in the Suisun Marsh or the jurisdiction of

1 the San Francisco Bay Conservation and Development
2 Commission, the department shall transmit a copy of the
3 application to the San Francisco Bay Conservation and
4 Development Commission for its review and comments.

5 (f) Upon receipt of an application, the department shall forward
6 the application to local governmental agencies having land use
7 and related jurisdiction in the area of the proposed site and related
8 facility. Those local agencies shall review the application and
9 submit comments on, among other things, the design of the facility,
10 architectural and aesthetic features of the facility, access to
11 highways, landscaping and grading, public use of lands in the area
12 of the facility, and other appropriate aspects of the design,
13 construction, or operation of the proposed site and related facility.

14 (g) Upon receipt of an application, the department shall cause
15 a summary of the application to be published in a newspaper of
16 general circulation in the county in which the site and related
17 facilities, or any part thereof, designated in the application, is
18 proposed to be located. The department shall transmit a copy of
19 the application to each federal and state agency having jurisdiction
20 or special interest in matters pertinent to the proposed site and
21 related facilities and to the Attorney General.

22 (h) Local and state agencies having jurisdiction or special
23 interest in matters pertinent to the proposed site and related
24 facilities shall provide their comments and recommendations on
25 the project within 180 days of the date of filing of an application.

26 (i) The adviser shall require that adequate notice is given to the
27 public and that the procedures specified by this division are
28 complied with.

29 (j) For any proposed site and related facility requiring a
30 certificate of public convenience and necessity, the department
31 shall transmit a copy of the application to the Public Utilities
32 Commission and request the comments and recommendations of
33 the Public Utilities Commission on the economic, financial, rate,
34 system reliability, and service implications of the proposed site
35 and related facility. If the board requires modification of the
36 proposed facility, the department shall consult with the Public
37 Utilities Commission regarding the economic, financial, rate,
38 system reliability, and service implications of those modifications.

39 (k) The department shall transmit a copy of the application to
40 any governmental agency not specifically mentioned in this act,

1 but which it finds has any information or interest in the proposed
2 site and related facilities, and shall invite the comments and
3 recommendations of each agency. The department shall request
4 any relevant laws, ordinances, or regulations that an agency has
5 promulgated or administered.

6 (I) An application for certification of any site and related
7 facilities shall contain a listing of every federal agency from which
8 any approval or authorization concerning the proposed site is
9 required, specifying the approvals or authorizations obtained at
10 the time of the application and the schedule for obtaining any
11 approvals or authorizations pending.

12 SEC. 237. Section 25520 of the Public Resources Code is
13 amended to read:

14 25520. The application shall contain all of the following
15 information and any other information that the board by regulation
16 may require:

17 (a) A detailed description of the design, construction, and
18 operation of the proposed facility.

19 (b) Safety and reliability information, including, in addition to
20 documentation previously provided pursuant to Section 25511,
21 planned provisions for emergency operations and shutdowns.

22 (c) Available site information, including maps and descriptions
23 of present and proposed development and, as appropriate,
24 geological, aesthetic, ecological, seismic, water supply, population,
25 and load center data, and justification for the particular site
26 proposed.

27 (d) Any other information relating to the design, operation, and
28 siting of the facility that the board may specify.

29 (e) A description of the facility, the cost of the facility, the fuel
30 to be used, the source of fuel, fuel cost, plant service life and
31 capacity factor, and generating cost per kilowatthour.

32 (f) A description of any electric transmission lines, including
33 the estimated cost of the proposed electric transmission line; a map
34 in suitable scale of the proposed routing showing details of the
35 rights-of-way in the vicinity of settled areas, parks, recreational
36 areas, and scenic areas, and existing transmission lines within one
37 mile of the proposed route; justification for the route, and a
38 preliminary description of the effect of the proposed electric
39 transmission line on the environment, ecology, and scenic, historic,
40 and recreational values.

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

3 25520.5. (a) In reviewing an application for an additional
4 facility at a potential multiple-facility site, the board shall undertake
5 a reconsideration of its prior determinations in the final report on
6 the notice for the site issued pursuant to Section 25514, based on
7 current conditions and other reasonable and feasible alternatives
8 to the proposed facility.

9 (b) Within 180 days of the filing of the application for an
10 additional facility at a potential multiple-facility site and after
11 adequate public hearings, the board shall issue its decision on the
12 acceptability of the proposed facility based on the reconsideration
13 specified in subdivision (a) of this section. A negative
14 determination shall be the final decision of the commission on the
15 application and subject to judicial review pursuant to Section
16 25531. An affirmative determination shall not be a final decision
17 of the board on the application.

18 (c) The decision of the board on an application for an additional
19 facility at a potential multiple-facility site receiving a favorable
20 determination pursuant to subdivision (b) of this section shall be
21 issued within 24 months after the filing of the application or at a
22 later time that is mutually agreed upon by the board and the
23 applicant.

24 SEC. 239. Section 25521 of the Public Resources Code is
25 amended to read:

26 25521. No earlier than 90 nor later than 240 days after the date
27 of the filing of an application, the board shall commence a public
28 hearing or hearings on the application in Sacramento, San
29 Francisco, Los Angeles, or San Diego, whichever city is nearest
30 the proposed site. Additionally, the board may hold a hearing or
31 hearings in the county in which the proposed site and related
32 facilities are to be located. The board hearings shall provide a
33 reasonable opportunity for the public and all parties to the
34 proceeding to comment upon the application and the department
35 staff assessment and shall provide the equivalent opportunity for
36 comment as required pursuant to Division 13 (commencing with
37 Section 21000). Consistent with the requirements of this section,
38 the board shall have the discretion to determine whether or not a
39 hearing is to be conducted in a manner that requires formal

1 examination of witnesses or that uses other similar adjudicatory
2 procedures.

3 SEC. 240. Section 25522 of the Public Resources Code is
4 amended to read:

5 25522. (a) Except as provided in subdivision (c) of Section
6 25520.5, within 18 months of the filing of an application for
7 certification, or within 12 months if it is filed within one year of
8 the board's approval of the notice of intent, or at a later time that
9 is mutually agreed upon by the board and the applicant, the board
10 shall issue a written decision as to the application.

11 (b) The department shall determine, within 45 days after it
12 receives the application, whether the application is complete. If
13 the department determines that the application is complete, the
14 application shall be deemed filed for purposes of this section on
15 the date that this determination is made. If the department
16 determines that the application is incomplete, the department shall
17 specify in writing those parts of the application that are incomplete
18 and shall indicate the manner in which it can be made complete.
19 If the applicant submits additional data to complete the application,
20 the department shall determine, within 30 days after receipt of that
21 data, whether the data is sufficient to make the application
22 complete. The application shall be deemed filed on the date when
23 the department determines the application is complete if the board
24 has adopted regulations specifying the informational requirements
25 for a complete application, but if the board has not adopted
26 regulations, the application shall be deemed filed on the last date
27 the department receives any additional data that completes the
28 application.

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

31 25523. The board shall prepare a written decision after the
32 public hearing on an application, that includes all of the following:

33 (a) Specific provisions relating to the manner in which the
34 proposed facility is to be designed, sited, and operated in order to
35 protect environmental quality and ensure public health and safety.

36 (b) In the case of a site to be located in the coastal zone, specific
37 provisions to meet the objectives of Division 20 (commencing
38 with Section 30000) as may be specified in the report submitted
39 by the California Coastal Commission pursuant to subdivision (d)
40 of Section 30413, unless the board specifically finds that the

1 adoption of the provisions specified in the report would result in
2 greater adverse effect on the environment or that the provisions
3 proposed in the report would not be feasible.

4 (c) In the case of a site to be located in the Suisun Marsh or in
5 the jurisdiction of the San Francisco Bay Conservation and
6 Development Commission, specific provisions to meet the
7 requirements of Division 19 (commencing with Section 29000)
8 of this code or Title 7.2 (commencing with Section 66600) of the
9 Government Code as may be specified in the report submitted by
10 the San Francisco Bay Conservation and Development Commission
11 pursuant to subdivision (d) of Section 66645 of the Government
12 Code, unless the board specifically finds that the adoption of the
13 provisions specified in the report would result in greater adverse
14 effect on the environment or the provisions proposed in the report
15 would not be feasible.

16 (d) (1) Findings regarding the conformity of the proposed site
17 and related facilities with standards adopted by the board pursuant
18 to Section 25216.3 and subdivision (d) of Section 25402, with
19 public safety standards and the applicable air and water quality
20 standards, and with other applicable local, regional, state, and
21 federal standards, ordinances, or laws. If the board finds that there
22 is noncompliance with a state, local, or regional ordinance or
23 regulation in the application, it shall consult and meet with the
24 state, local, or regional governmental agency concerned to attempt
25 to correct or eliminate the noncompliance. If the noncompliance
26 cannot be corrected or eliminated, the department shall inform the
27 state, local, or regional governmental agency if it makes the
28 findings required by Section 25525.

29 (2) The board may not find that the proposed facility conforms
30 with applicable air quality standards pursuant to paragraph (1)
31 unless the applicable air pollution control district or air quality
32 management district certifies, prior to the licensing of the project
33 by the board, that complete emissions offsets for the proposed
34 facility have been identified and will be obtained by the applicant
35 within the time required by the district's rules or unless the
36 applicable air pollution control district or air quality management
37 district certifies that the applicant requires emissions offsets to be
38 obtained prior to the commencement of operation consistent with
39 Section 42314.3 of the Health and Safety Code and prior to
40 commencement of the operation of the proposed facility. The board

1 shall require as a condition of certification that the applicant obtain
2 any required emission offsets within the time required by the
3 applicable district rules, consistent with any applicable federal and
4 state laws and regulations, and prior to the commencement of the
5 operation of the proposed facility.

6 (e) Provision for restoring the site as necessary to protect the
7 environment, if the board denies approval of the application.

8 (f) In the case of a site and related facility using resource
9 recovery (waste-to-energy) technology, specific conditions
10 requiring that the facility be monitored to ensure compliance with
11 paragraphs (1), (2), (3), and (6) of subdivision (a) of Section 42315
12 of the Health and Safety Code.

13 (g) In the case of a facility, other than a resource recovery
14 facility subject to subdivision (f), specific conditions requiring the
15 facility to be monitored to ensure compliance with toxic air
16 contaminant control measures adopted by an air pollution control
17 district or air quality management district pursuant to subdivision
18 (d) of Section 39666 or Section 41700 of the Health and Safety
19 Code, whether the measures were adopted before or after issuance
20 of a determination of compliance by the district.

21 (h) A discussion of any public benefits from the project
22 including, but not limited to, economic benefits, environmental
23 benefits, and electricity reliability benefits.

24 SEC. 242. Section 25524.1 of the Public Resources Code is
25 amended to read:

26 25524.1. (a) Except for the existing Diablo Canyon Units 1
27 and 2 owned by Pacific Gas and Electric Company and San Onofre
28 Units 2 and 3 owned by Southern California Edison Company and
29 San Diego Gas and Electric Company, a nuclear fission thermal
30 powerplant requiring the reprocessing of fuel rods, including any
31 to which this chapter does not otherwise apply, excepting any
32 having a vested right as defined in this section, shall not be
33 permitted land use in the state or, where applicable, certified by
34 the board until both of the following conditions are met:

35 (1) The board finds that the United States through its authorized
36 agency has identified and approved, and there exists a technology
37 for the construction and operation of, nuclear fuel rod reprocessing
38 plants.

39 (2) The board has reported its findings and the reasons therefor
40 pursuant to paragraph (1) to the Legislature. That report shall be

1 assigned to the appropriate policy committees for review. The
2 board may proceed to certify nuclear fission thermal powerplants
3 100 legislative days after reporting the board's findings unless
4 within those 100 legislative days either house of the Legislature
5 adopts by a majority vote of its members a resolution disaffirming
6 the findings of the board made pursuant to paragraph (1).

7 (3) A resolution of disaffirmance shall set forth the reasons for
8 the action and shall provide, to the extent possible, guidance to
9 the board as to an appropriate method of bringing the board's
10 findings into conformance with paragraph (1).

11 (4) If a disaffirming resolution is adopted, the board shall
12 reexamine its original findings consistent with matters raised in
13 the resolution. On conclusion of its reexamination, the board shall
14 transmit its findings in writing, with the reasons therefor, to the
15 Legislature.

16 (5) If the findings are that the conditions of paragraph (1) have
17 been met, the board may proceed to certify nuclear fission thermal
18 powerplants 100 legislative days after reporting its findings to the
19 Legislature unless within those 100 legislative days both houses
20 of the Legislature act by statute to declare the findings null and
21 void and take appropriate action.

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

26 (b) The board shall further find on a case-by-case basis that
27 facilities with adequate capacity to reprocess nuclear fuel rods
28 from a certified nuclear facility or to store that fuel if that storage
29 is approved by an authorized agency of the United States are in
30 actual operation or will be in operation at the time that the nuclear
31 facility requires reprocessing or storage; provided, however, that
32 the storage of fuel is in an offsite location to the extent necessary
33 to provide continuous onsite full core reserve storage capacity.

34 (c) The board shall continue to receive and process applications
35 for certification pursuant to this division, but the board shall not
36 issue a decision pursuant to Section 25523 granting a certificate
37 until the requirements of this section have been met. All other
38 permits, licenses, approvals, or authorizations for the entry or use
39 of the land, including orders of court that may be required may be
40 processed and granted by the governmental entity concerned, but

1 construction work to install permanent equipment or structures
2 shall not commence until the requirements of this section have
3 been met.

4 SEC. 243. Section 25524.2 of the Public Resources Code is
5 amended to read:

6 25524.2. Except for the existing Diablo Canyon Units 1 and 2
7 owned by Pacific Gas and Electric Company and San Onofre Units
8 2 and 3 owned by Southern California Edison Company and San
9 Diego Gas and Electric Company, a nuclear fission thermal
10 powerplant, including any to which this chapter does not otherwise
11 apply, but excepting those exempted herein, shall not be permitted
12 land use in the state, or where applicable, be certified by the board
13 until both of the following conditions have been met:

14 (a) The board finds that there has been developed and that the
15 United States through its authorized agency has approved and there
16 exists a demonstrated technology or means for the disposal of
17 high-level nuclear waste.

18 (b) (1) The board has reported its findings and the reasons
19 therefor pursuant to paragraph (a) to the Legislature. That report
20 shall be assigned to the appropriate policy committees for review.
21 The board may proceed to certify nuclear fission thermal
22 powerplants 100 legislative days after reporting its findings unless
23 within those 100 legislative days either house of the Legislature
24 adopts by a majority vote of its members a resolution disaffirming
25 the findings of the board made pursuant to subdivision (a).

26 (2) A resolution of disaffirmance shall set forth the reasons for
27 the action and shall provide, to the extent possible, guidance to
28 the board as to an appropriate method of bringing the board's
29 findings into conformance with subdivision (a).

30 (3) If a disaffirming resolution is adopted, the board shall
31 reexamine its original findings consistent with matters raised in
32 the resolution. On conclusion of its reexamination, the board shall
33 transmit its findings in writing, with the reasons therefor, to the
34 Legislature.

35 (4) If the findings are that the conditions of subdivision (a) have
36 been met, the board may proceed to certify nuclear fission thermal
37 powerplants 100 legislative days after reporting its findings to the
38 Legislature unless within those 100 legislative days both houses
39 of the Legislature act by statute to declare the findings null and
40 void and take appropriate action.

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

5 (c) As used in subdivision (a), “technology or means for the
6 disposal of high-level nuclear waste” means a method for the
7 permanent and terminal disposition of high-level nuclear waste.
8 Nothing in this section requires that facilities for the application
9 of that technology or means be available at the time that the board
10 makes its findings. That disposition of high-level nuclear waste
11 does not preclude the possibility of an approved process for
12 retrieval of the waste.

13 (d) The board shall continue to receive and process notices of
14 intention and applications for certification pursuant to this division
15 but shall not issue a decision pursuant to Section 25523 granting
16 a certificate until the requirements of this section have been met.
17 All other permits, licenses, approvals, or authorizations for the
18 entry or use of the land, including orders of court that may be
19 required may be processed and granted by the governmental entity
20 concerned, but construction work to install permanent equipment
21 or structures shall not commence until the requirements of this
22 section have been met.

23 SEC. 244. Section 25524.5 of the Public Resources Code is
24 amended to read:

25 25524.5. The board shall not certify any facility that adds
26 generating capacity to a potential multiple-facility site in excess
27 of the maximum allowable capacity established by the board
28 pursuant to Section 25516.5, unless the board finds that exceeding
29 the maximum allowable capacity will not increase adverse
30 environmental impacts or create technological, seismic, or other
31 difficulties beyond those already found acceptable in the board’s
32 findings on the notice for that site pursuant to Sections 25516 and
33 25516.5.

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

36 25525. The board shall not certify a facility contained in the
37 application if it finds, pursuant to subdivision (d) of Section 25523,
38 that the facility does not conform with any applicable state, local,
39 or regional standards, ordinances, or laws, unless the board
40 determines that the facility is required for public convenience and

1 necessity and that there are not more prudent and feasible means
2 of achieving public convenience and necessity. In making the
3 determination, the board shall consider the entire record of the
4 proceeding, including, but not limited to, the impacts of the facility
5 on the environment, consumer benefits, and electric system
6 reliability. The board shall not make a finding in conflict with
7 applicable federal law or regulation. The basis for these findings
8 shall be reduced to writing and submitted as part of the record
9 pursuant to Section 25523.

10 SEC. 246. Section 25526 of the Public Resources Code is
11 amended to read:

12 25526. (a) The board shall not approve as a site for a facility
13 any location designated by the California Coastal Commission
14 pursuant to subdivision (b) of Section 30413, unless the California
15 Coastal Commission first finds that the use is not inconsistent with
16 the primary uses of that land and that there will be no substantial
17 adverse environmental effects and unless the approval of any public
18 agency having ownership or control of the land is obtained.

19 (b) The board shall not approve as a site for a facility any
20 location designated by the San Francisco Bay Conservation and
21 Development Commission pursuant to subdivision (b) of Section
22 66645 of the Government Code unless the San Francisco Bay
23 Conservation and Development Commission first finds that such
24 use is not inconsistent with the primary uses of such land and that
25 there will be no substantial adverse environmental effects and
26 unless the approval of any public agency having ownership or
27 control of the land is obtained.

28 SEC. 247. Section 25527 of the Public Resources Code is
29 amended to read:

30 25527. The following areas of the state shall not be approved
31 as a site for a facility, unless the board finds that the use is not
32 inconsistent with the primary uses of those lands and that there
33 will be no substantial adverse environmental effects and the
34 approval of any public agency having ownership or control of
35 those lands is obtained:

36 (a) State, regional, county, and city parks; wilderness, scenic,
37 or natural reserves; areas for wildlife protection, recreation, historic
38 preservation; or natural preservation areas in existence on the
39 effective date of this division.

40 (b) Estuaries in an essentially natural and undeveloped state.

1 In considering applications for certification, the board shall give
2 the greatest consideration to the need for protecting areas of critical
3 environmental concern, including, but not limited to, unique and
4 irreplaceable scientific, scenic, and educational wildlife habitats;
5 unique historical, archeological, and cultural sites; lands of
6 hazardous concern; and areas under consideration by the state or
7 the United States for wilderness, or wildlife and game reserves.

8 SEC. 248. Section 25528 of the Public Resources Code is
9 amended to read:

10 25528. (a) The board shall require, as a condition of
11 certification of any site and related facility, that the applicant
12 acquire, by grant or contract, the right to prohibit development of
13 privately owned lands in the area of the proposed site that will
14 result in population densities in excess of the maximum population
15 densities that the board determines, as to the factors considered
16 by the board pursuant to Section 25511, are necessary to protect
17 public health and safety.

18 If the applicant is authorized to exercise the right of eminent
19 domain under Article 7 (commencing with Section 610) of Chapter
20 3 of Part 1 of Division 1 of the Public Utilities Code, the applicant
21 may exercise the right of eminent domain to acquire those
22 development rights that the board requires be acquired.

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

29 (c) The board shall waive the requirements of the acquisition
30 of development rights by an applicant to the extent that the board
31 finds that existing governmental land use restrictions are of a type
32 necessary and sufficient to guarantee the maintenance of population
33 levels and land use development over the lifetime of the facility
34 which will ensure the public health and safety requirements set
35 pursuant to this section.

36 (d) No change in governmental land use restrictions in areas
37 designated in subdivision (c) of this section by any government
38 agency shall be effective until approved by the board. This approval
39 shall certify that the change in land use restrictions is not in conflict
40 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:

1 25531. (a) The decisions of the board on any application for
2 certification of a site and related facility are subject to judicial
3 review by the Supreme Court of California.

4 (b) New or additional evidence shall not be introduced upon
5 review and the cause shall be heard on the record of the board as
6 certified to by it. The review shall not be extended further than to
7 determine whether the board has regularly pursued its authority,
8 including a determination of whether the order or decision under
9 review violates any right of the petitioner under the United States
10 Constitution or the California Constitution. The findings and
11 conclusions of the board on questions of fact are final and are not
12 subject to review, except as provided in this article. These questions
13 of fact shall include ultimate facts and the findings and conclusions
14 of the board. A report prepared by, or an approval of, the board
15 pursuant to Section 25510, 25514, 25516, or 25516.5, or
16 subdivision (b) of Section 25520.5, shall not constitute a decision
17 of the board subject to judicial review.

18 (c) Subject to the right of judicial review of decisions of the
19 board, no court in this state has jurisdiction to hear or determine
20 any case or controversy concerning any matter which was, or could
21 have been, determined in a proceeding before the board, or to stop
22 or delay the construction or operation of any thermal powerplant
23 except to enforce compliance with the provisions of a decision of
24 the board.

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

27 (1) If the board requires, pursuant to subdivision (a) of Section
28 25528, as a condition of certification of any site and related facility,
29 that the applicant acquire development rights, that requirement
30 conclusively establishes the matters referred to in Sections
31 1240.030 and 1240.220 of the Code of Civil Procedure in any
32 eminent domain proceeding brought by the applicant to acquire
33 the development rights.

34 (2) If the board certifies any site and related facility, that
35 certification conclusively establishes the matters referred to in
36 Sections 1240.030 and 1240.220 of the Code of Civil Procedure
37 in any eminent domain proceeding brought to acquire the site and
38 related facility.

1 (e) A decision of the board pursuant to Section 25516, 25522,
2 or 25523 shall not be found to mandate a specific supply plan for
3 any utility as prohibited by Section 25323.

4 SEC. 252. Section 25532 of the Public Resources Code is
5 amended to read:

6 25532. The department shall establish a monitoring system to
7 assure that any facility certified under this division is constructed
8 and is operating in compliance with air and water quality, public
9 health and safety, and other applicable regulations, guidelines, and
10 conditions adopted or established by the board or specified in the
11 written decision on the application. In designing and operating the
12 monitoring system, the department shall seek the cooperation and
13 assistance of the State Air Resources Board, the State Water
14 Resources Control Board, the Department of Health, and other
15 state, regional, and local agencies which have an interest in
16 environmental control.

17 SEC. 253. Section 25534 of the Public Resources Code is
18 amended to read:

19 25534. (a) The board may, after one or more hearings, amend
20 the conditions of, or revoke the certification for, any facility for
21 any of the following reasons:

22 (1) Any material false statement set forth in the application,
23 presented in proceedings of the board, or included in supplemental
24 documentation provided by the applicant.

25 (2) Any significant failure to comply with the terms or
26 conditions of approval of the application, as specified by the board
27 in its written decision.

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

30 (b) The board may also administratively impose a civil penalty
31 for a violation of paragraph (1) or (2) of subdivision (a). Any civil
32 penalty shall be imposed in accordance with Section 25534.1 and
33 may not exceed seventy-five thousand dollars (\$75,000) per
34 violation, except that the civil penalty may be increased by an
35 amount not to exceed one thousand five hundred dollars (\$1,500)
36 per day for each day in which the violation occurs or persists, but
37 the total of the per day penalties may not exceed fifty thousand
38 dollars (\$50,000).

39 (c) A project owner shall commence construction of a project
40 subject to the start-of-construction deadline provided by paragraph

(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

1 shall offer to reimburse the original certificate holder for the actual
2 costs the original certificate holder incurred in permitting the
3 project and in procuring assets associated with the license,
4 including, but not limited to, major equipment and the emission
5 offsets. In order to receive reimbursement, the original certificate
6 holder shall provide to the department documentation of the actual
7 costs incurred in permitting the project. The department shall
8 validate those costs. The certificate holder may refuse to accept
9 the offer of reimbursement for any asset associated with the license
10 and retain the asset. To the extent the certificate holder chooses to
11 accept the offer for an asset, it shall provide the authority with the
12 asset.

13 (2) If the authority reimburses the original certificate holder for
14 the costs described in paragraph (1), the original certificate holder
15 shall provide the authority with all of the assets for which the
16 original certificate holder received reimbursement.

17 (j) This section does not prevent a certificate holder from selling
18 its license to construct and operate a project prior to its revocation
19 by the board. In the event of a sale to an entity that is not an
20 affiliate of the certificate holder, the board shall adopt new
21 deadlines or milestones for the project that allow the new certificate
22 holder up to 12 months to start construction of the project or to
23 start to meet the applicable deadlines or milestones.

24 (k) Paragraph (4) of subdivision (a) and subdivisions (c) to (j),
25 inclusive, do not apply to licenses issued for the modernization,
26 repowering, replacement, or refurbishment of existing facilities or
27 to a qualifying small power production facility or a qualifying
28 cogeneration facility within the meaning of Sections 201 and 210
29 of Title II of the federal Public Utility Regulatory Policies Act of
30 1978 (16 U.S.C. Secs. 796(17), 796(18), and 824a-3), and the
31 regulations adopted pursuant to those sections by the Federal
32 Energy Regulatory Commission (18 C.F.R. Parts 292.101 to
33 292.602, inclusive), nor shall those provisions apply to any other
34 generation units installed, operated, and maintained at a customer
35 site exclusively to serve that facility's load. For the purposes of
36 this subdivision, "replacement" of an existing facility includes,
37 but is not limited to, a comparable project at a location different
38 than the facility being replaced, if the board certifies that the new
39 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,

1 extent, and gravity of the violation or violations, whether the
2 violation is susceptible to removal or resolution, the cost to the
3 state in pursuing the enforcement action, and with respect to the
4 violator, the ability to pay, the effect on ability to continue in
5 business, any voluntary removal or resolution efforts undertaken,
6 any prior history of violations, the degree of culpability, economic
7 savings, if any, resulting from the violation, and such other matters
8 as justice may require.

9 SEC. 255. Section 25534.2 of the Public Resources Code is
10 amended to read:

11 25534.2. (a) Within 30 days after service of an order issued
12 under Section 25534.1, any aggrieved party may file with the
13 superior court a petition for writ of mandate for review thereof
14 pursuant to Section 1094.5 of the Code of Civil Procedure. If no
15 aggrieved party petition for a writ of mandate is filed within the
16 time provided by this section, an order of the board is not subject
17 to review by any court or agency, except that the board may grant
18 review on its own motion of an order issued under Section 25534.1
19 after the expiration of the time limits set by this section.

20 (b) Upon request of the board, the Attorney General shall
21 institute an action in the appropriate superior court to collect and
22 recover any administrative civil penalties imposed pursuant to
23 Section 25534.1. The court shall accord priority on its calendar to
24 any action under this subdivision.

25 (c) Any moneys recovered by the board pursuant to this section
26 shall be deposited in the General Fund.

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

29 25537. Upon approval of an application by the board, the
30 department shall forward to the United States Nuclear Regulatory
31 Commission, the Environmental Protection Agency, and to other
32 appropriate federal agencies, the results of its studies including
33 the environmental impact report on the facility, the written decision
34 on the facility contained in the application, and the board's
35 determination of facility safety and reliability as provided in
36 Section 25511.

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

39 25538. Upon receiving the board's request for review under
40 subdivision (f) of Section 25519 and Section 25506, the local

1 agency may request a fee from the board to reimburse the local
2 agency for the actual and added costs of this review by the local
3 agency. The board shall reimburse the local agency for the added
4 costs that shall be actually incurred by the local agency in
5 complying with the board's request. The local agency may also
6 request reimbursement for permit fees that the local agency would
7 receive but for the operation of Section 25500, provided, however,
8 that these fees may only be requested in accordance with actual
9 services performed by the local agency. The board shall either
10 request a fee from the person proposing the project or devote a
11 special fund in its budget for the reimbursement of these costs
12 incurred by local agencies.

13 SEC. 258. Section 25539 of the Public Resources Code is
14 amended to read:

15 25539. In reviewing notices and applications for certification
16 of modifications of existing facilities, the board shall adopt rules
17 and regulations as necessary to ensure that relevant duties pursuant
18 to this division are carried out.

19 SEC. 259. Section 25540 of the Public Resources Code is
20 amended to read:

21 25540. If a person proposes to construct a geothermal
22 powerplant and related facility or facilities on a site, the board
23 shall not require three alternative sites and related facilities to be
24 proposed in the notice. Except as otherwise provided, the board
25 shall issue its findings on the notice, as specified in Section 25514,
26 within nine months from the date of filing of such notice, and shall
27 issue its final decision on the application, as specified in Section
28 25523, within nine months from the date of the filing of the
29 application for certification, or at such later time as is mutually
30 agreed to by the board and the applicant or person submitting the
31 notice or application.

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

34 25540.1. The board shall determine, within 30 days after the
35 receipt of a notice or application for a geothermal powerplant,
36 whether the notice or application is complete. If the notice or
37 application is determined not to be complete, the board's
38 determination shall specify, in writing, those parts of the notice or
39 application which are incomplete and shall indicate the manner in
40 which it can be made complete. Within 30 days after receipt of

1 the applicant's filing with the board the additional information
2 requested by the board to make the notice or application complete,
3 the board shall determine whether the subsequent filing is sufficient
4 to complete the notice or application. A notice or application shall
5 be deemed filed for purposes of Section 25540 on the date the
6 board determines the notice or application is completed if the board
7 has adopted regulations specifying the informational requirements
8 for a complete notice or application, but if the board has not
9 adopted regulations, the notice or application shall be deemed filed
10 on the last date the board receives any additional data that
11 completes the notice or application.

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

14 25540.2. Notwithstanding any other law:

15 (a) If an applicant proposes to construct a geothermal powerplant
16 at a site that, at the outset of the proceeding, the applicant can
17 reasonably demonstrate to be capable of providing geothermal
18 resources in commercial quantities, a notice of intention pursuant
19 to Section 25502 shall not be required, and the board shall issue
20 the final decision on the application, as specified in Section 25523,
21 within 12 months after acceptance of the application for
22 certification of a geothermal powerplant and related facilities, or
23 at a later time that is mutually agreed upon by the board and the
24 applicant.

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

29 SEC. 262. Section 25540.3 of the Public Resources Code is
30 amended to read:

31 25540.3. (a) An applicant for a geothermal powerplant may
32 propose a site to be approved that will accommodate a potential
33 maximum electric generating capacity in excess of the capacity
34 being proposed for initial construction. In addition to the
35 information concerning the initial powerplant and related facilities
36 proposed for construction required pursuant to Section 25520, the
37 application shall include all of the following, to the extent known:

38 (1) The number, type, and energy source of electric generating
39 units that the site is proposed ultimately to accommodate and the
40 maximum generating capacity for each unit.

1 (2) The projected installation schedule for each unit.

2 (3) The impact of the site, when fully developed, on the
3 environment and public health and safety.

4 (4) The amount and sources of cooling water needed at the fully
5 developed site.

6 (5) The general location and design of auxiliary facilities
7 planned for each stage of development, including, but not limited
8 to, pipelines, transmission lines, waste storage and disposal
9 facilities, switchyards, and cooling ponds, lakes, or towers.

10 (6) Other information relating to the design, operation, and
11 siting of the facility that the board may by regulation require.

12 (b) (1) If an application is filed pursuant to subdivision (a) that
13 proposes a site to be approved that will accommodate a potential
14 maximum electric generating capacity in excess of the capacity
15 being proposed for initial construction, the board may, in its
16 decision pursuant to subdivision (a) of Section 25540.3, either
17 certify only the initial facility or facilities proposed for initial
18 construction or may certify the initial facility or facilities and find
19 the site acceptable for additional generating capacity of the type
20 tentatively proposed. The maximum allowable amount and type
21 of such additional capacity shall be determined by the board.

22 (2) If the decision includes a finding that a particular site is
23 suitable to accommodate a particular additional generating capacity,
24 the site shall be designated a potential multiple facility site. The
25 board may, in determining the acceptability of a potential multiple
26 facility site, specify conditions or criteria necessary to ensure that
27 future additional facilities will not exceed the limitations of the
28 site.

29 SEC. 263. Section 25540.4 of the Public Resources Code is
30 amended to read:

31 25540.4. Notwithstanding any other law:

32 (a) The decision of the board on an application for an additional
33 facility at a potential multiple facility site shall be issued within
34 three months after the acceptance of the application or at a later
35 time that is mutually agreed upon by the board and the applicant.

36 (b) In reviewing an application for an additional facility at a
37 potential multiple facility site, the board may, upon a showing of
38 good cause, undertake a reconsideration of its prior determinations
39 in the final report for the site pursuant to Section 25514 or its
40 decision pursuant to Section 25523 based on current conditions

1 and other reasonable alternatives to the proposed facility. The
2 reconsideration must be completed within seven months after
3 acceptance of the application for an additional facility.

4 (c) The board shall, pursuant to Section 21100.2, provide by
5 resolution or order for completing and certifying the environmental
6 impact report within the time limits established by subdivisions
7 (a) and (b).

8 SEC. 264. Section 25540.5 of the Public Resources Code is
9 amended to read:

10 25540.5. The board may, at the petition of a county that has
11 adopted a geothermal element for its general plan, approve an
12 equivalent certification program that delegates to that county full
13 authority for the certification of all geothermal powerplants within
14 that county. Once approved by the board, the equivalent
15 certification program shall replace and supersede the procedures
16 for certification of all geothermal powerplants and related facilities,
17 pursuant to Sections 25540 to 25540.4, inclusive, to be located
18 within that county. The board may, after public hearings, revoke
19 the approved equivalent certification program of the county if the
20 board finds that the program does not comply with current board
21 certification requirements. The equivalent certification program
22 shall include, but not be limited to, provisions for all of the
23 following:

24 (a) Certification of geothermal areas as potential multiple facility
25 sites, if so applied for.

26 (b) Processing of applications in less than 12 months.

27 (c) Periodic review and updating of the program by the county
28 as may be required by law and the board.

29 (d) Appeal procedures, including appeals to the board on
30 substantive issues. In any such appeal on a substantive issue, the
31 board shall determine whether the act or decision is supported by
32 substantial evidence in the light of the whole record. The board
33 shall determine, within 15 days of receipt of an appeal, whether
34 the appeal has merit and whether action should be taken.

35 (e) Input and review by other relevant public agencies and
36 members of the public.

37 (f) Public hearing procedures equivalent to those specified in
38 Article 6 (commencing with Section 65350) of Chapter 3 of Title
39 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:

1 25541. The board may exempt from this chapter thermal
2 powerplants with a generating capacity of up to 100 megawatts
3 and modifications to existing generating facilities that do not add
4 capacity in excess of 100 megawatts, if the board finds that no
5 substantial adverse impact on the environment or energy resources
6 will result from the construction or operation of the proposed
7 facility or from the modifications.

8 SEC. 267. Section 25541.5 of the Public Resources Code is
9 amended to read:

10 25541.5. (a) On or before January 1, 2001, the Secretary of
11 the Natural Resources Agency shall review the regulatory program
12 conducted pursuant to this chapter that was certified pursuant to
13 subdivision (j) of Section 15251 of Title 14 of the California Code
14 of Regulations, to determine whether the regulatory program meets
15 the criteria specified in Section 21080.5. If the Secretary of the
16 Natural Resources Agency determines that the regulatory program
17 meets those criteria, he or she shall continue the certification of
18 the regulatory program.

19 (b) If the Secretary of the Natural Resources Agency continues
20 the certification of the regulatory program, the board shall amend
21 the regulatory program from time to time, as necessary to permit
22 the Secretary of the Natural Resources Agency to continue to
23 certify the program.

24 (c) This section does not invalidate the certification of the
25 regulatory program, as it existed on January 1, 2000, pending the
26 review required by subdivision (a).

27 SEC. 268. Section 25542 of the Public Resources Code is
28 amended to read:

29 25542. In the case of any site and related facility or facilities
30 for which the provisions of this division do not apply, the exclusive
31 power given to the board pursuant to Section 25500 to certify sites
32 and related facilities shall not be in effect.

33 SEC. 269. Section 25543 of the Public Resources Code is
34 amended to read:

35 25543. (a) It is the intent of the Legislature to improve the
36 process of siting and licensing new thermal electric powerplants
37 to ensure that these facilities can be sited in a timely manner, while
38 protecting environmental quality and public participation in the
39 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).

1 (b) Increased energy use efficiencies of existing thermal electric
2 and hydroelectric powerplants and increased energy efficiencies
3 in designs of thermal electric and hydroelectric powerplants.

4 (c) Expansion and accelerated development of alternative
5 sources of energy, including geothermal and solar resources,
6 including, but not limited to, participation in large-scale
7 demonstrations of alternative energy systems sited in California
8 in cooperation with federal agencies, regional compacts, other
9 state governments, and other participants. For purposes of this
10 subdivision, "participation" shall be defined as any of the
11 following: (1) direct interest in a project, (2) research and
12 development to ensure acceptable resolution of environmental and
13 other impacts of alternative energy systems, (3) research and
14 development to improve siting and permitting methodology for
15 alternative energy systems, (4) experiments utilizing the alternative
16 energy systems, and (5) research and development of appropriate
17 methods to ensure the widespread utilization of economically
18 useful alternative energy systems. Large-scale demonstrations of
19 alternative energy systems are exemplified by the 100KW_e to
20 100MW_e range demonstrations of solar, wind, and geothermal
21 systems contemplated by federal agencies, regional compacts,
22 other state governments, and other participants.

23 (d) Improved methods of construction, design, and operation
24 of facilities to protect against seismic hazards.

25 (e) Improved methods of energy-demand forecasting.

26 (f) To accomplish the purposes of subdivision (c), an amount
27 not more than one-half of the total state funds appropriated for the
28 solar energy research and development program as proposed in
29 the budget shall be allocated for large-scale demonstration of
30 alternative energy systems.

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

33 25602. The department shall carry out technical assessment
34 studies on all forms of energy and energy-related problems, in
35 order to influence federal research and development priorities and
36 to be informed on future energy options and their impacts,
37 including, in addition to those problems specified in Section 25601,
38 but not limited to, the following:

39 (a) Advanced nuclear powerplant concepts, fusion, and fuel
40 cells.

- 1 (b) Total energy concepts.
- 2 (c) New technology related to coastal and offshore siting of
- 3 facilities.
- 4 (d) Expanded use of wastewater as cooling water and other
- 5 advances in powerplant cooling.
- 6 (e) Improved methods of power transmission to permit interstate
- 7 and interregional transfer and exchange of bulk electric power.
- 8 (f) Measures to reduce wasteful and inefficient uses of energy.
- 9 (g) Shifts in transportation modes and changes in transportation
- 10 technology in relation to implications for energy consumption.
- 11 (h) Methods of recycling, extraction, processing, fabricating,
- 12 handling, or disposing of materials, especially materials which
- 13 require large commitments of energy.
- 14 (i) Expanded recycling of materials and its effect on energy
- 15 consumption.
- 16 (j) Implications of government subsidies and taxation and
- 17 ratesetting policies.
- 18 (k) Utilization of waste heat.
- 19 (l) Use of hydrogen as an energy form.
- 20 (m) Use of agricultural products, municipal wastes, and organic
- 21 refuse as an energy source.

22 These assessments may also be conducted in order to determine
23 which energy systems among competing technologies are most
24 compatible with standards established pursuant to this division.

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

27 25603. For research purposes, the department shall, in
28 cooperation with other state agencies, participate in the design,
29 construction, and operation of energy-conserving buildings using
30 data developed pursuant to Section 25401, in order to demonstrate
31 the economic and technical feasibility of those designs.

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

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

36 25605. On or before November 1, 1978, the department, with
37 the approval by the board, shall develop and adopt, in cooperation
38 with affected industry and consumer representatives, and after one
39 or more public hearings, regulations governing solar devices. The
40 regulations shall be designed to encourage the development and

1 use of solar energy and to provide maximum information to the
2 public concerning solar devices. The regulations may include, but
3 need not be limited to, any or all of the following:

4 (a) Standards for testing, inspection, certification, sizing, and
5 installation of solar devices.

6 (b) Provisions for the enforcement of the standards. These
7 provisions may include any or all of the following:

8 (1) Procedures for the accreditation by the department of
9 laboratories to test and certify solar devices.

10 (2) Requirements for onsite inspection of solar devices,
11 including specifying methods for inspection, to determine
12 compliance or noncompliance with the standards.

13 (3) Requirements for submission to the department of any data
14 resulting from the testing and inspection of solar devices.

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

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

20 (c) In adopting the regulations, the department shall give due
21 consideration to their effect on the cost of purchasing, installing,
22 operating, and maintaining solar devices. The department, with
23 the approval of the board, shall reassess the regulations as often
24 as it deems necessary, based upon the value of the regulations in
25 terms of benefits and disadvantages to the widespread adoption of
26 solar energy systems and the need to encourage creativity and
27 innovative adaptations of solar energy. The department may amend
28 or repeal these regulations based on such reassessment.

29 (d) Under no circumstances may the department or the board
30 preclude any person from developing, installing, or operating a
31 solar device on his or her own property.

32 (e) Any violation of any regulation adopted by the board
33 pursuant to this section may be enjoined in the same manner as is
34 prescribed in Chapter 10 (commencing with Section 25900) of
35 this division for enjoining a violation of this division.

36 SEC. 275. Section 25605.5 of the Public Resources Code is
37 amended to read:

38 25605.5. Standards adopted by the board pursuant to Section
39 25605, which are building standards as defined in Section 25488.5,
40 shall be submitted to the State Building Standards Commission

1 for approval pursuant to, and are governed by, the State Building
2 Standards Law (Part 2.5 (commencing with Section 18901) of
3 Division 13 of the Health and Safety Code). Building standards
4 adopted by the board and published in the State Building Standards
5 Code shall comply with, and be enforced as provided in, Section
6 25605.

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

9 25608. The department shall confer with officials of federal
10 agencies, including the National Aeronautics and Space
11 Administration, the National Institute of Standards and Technology,
12 the Department of Energy, and the Department of Housing and
13 Urban Development, to coordinate the adoption of regulations
14 pursuant to Sections 25603 and 25605.

15 SEC. 277. Section 25609 of the Public Resources Code is
16 amended to read:

17 25609. The board may, in adopting regulations pursuant to this
18 chapter, specify the date when the regulations shall take effect.
19 The board may specify different dates for different regulations.

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

22 25609.5. The effective dates of building standards adopted by
23 the board pursuant to Section 25609 are subject to approval
24 pursuant to the provisions of the State Building Standards Law,
25 Part 2.5 (commencing with Section 18901) of Part 13 of the Health
26 and Safety Code.

27 SEC. 279. Section 25610 of the Public Resources Code is
28 amended to read:

29 25610. For purposes of carrying out the provisions of this
30 chapter, the department may contract with any person for materials
31 and services that cannot be performed by its staff or other state
32 agencies, and may apply for federal grants or any other funding.

33 SEC. 280. Section 25616 of the Public Resources Code is
34 amended to read:

35 25616. (a) It is the intent of the Legislature to encourage local
36 agencies to expeditiously review permit applications to site energy
37 projects, and to encourage energy project developers to consider
38 all cost-effective and environmentally superior alternatives that
39 achieve their project objectives.

1 (b) Subject to the availability of funds appropriated therefor,
2 the department shall provide technical assistance and grants-in-aid
3 to assist local agencies to do either or both of the following:

4 (1) Site energy production or transmission projects that are not
5 otherwise subject to Chapter 6 (commencing with Section 25500).

6 (2) Integrate into their planning processes, and incorporate into
7 their general plans, methods to achieve cost-effective energy
8 efficiency.

9 (c) The department shall provide assistance at the request of
10 local agencies.

11 (d) As used in this section, an energy project is any project
12 designed to produce, convert, or transmit energy as one of its
13 primary functions.

14 SEC. 281. Section 25617 of the Public Resources Code is
15 amended to read:

16 25617. (a) It is the intent of the Legislature to preserve
17 diversity of energy resources, including diversity of resources used
18 in electric generation facilities, industrial and commercial
19 applications, and transportation.

20 (b) The department shall, within the limits of available funds,
21 provide technical assistance and support for the development of
22 petroleum diesel fuels that are as clean or cleaner than alternative
23 clean fuels and clean diesel engines. That technical assistance and
24 support may include the creation of research, development, and
25 demonstration programs.

26 SEC. 282. Section 25618 of the Public Resources Code is
27 amended to read:

28 25618. (a) The department shall facilitate development and
29 commercialization of ultra low- and zero-emission electric vehicles
30 and advanced battery technologies, as well as development of an
31 infrastructure to support maintenance and fueling of those vehicles
32 in California. Facilitating commercialization of ultra low- and
33 zero-emission electric vehicles in California shall include, but not
34 be limited to, the following:

35 (1) The department may, in cooperation with county, regional,
36 and city governments, the state's public and private utilities, and
37 the private business sector, develop plans for accelerating the
38 introduction and use of ultra low- and zero-emission electric
39 vehicles throughout California's air quality nonattainment areas,
40 and for accelerating the development and implementation of the

1 necessary infrastructure to support the planned use of those vehicles
2 in California. These plans shall be consistent with, but not limited
3 to, the criteria for similar efforts contained in federal loan, grant,
4 or matching fund projects.

5 (2) In coordination with other state agencies, the department
6 shall seek to maximize the state's use of federal programs, loans,
7 and matching funds available to states for ultra low- and
8 zero-emission electric vehicle development and demonstration
9 programs, and infrastructure development projects.

10 (b) Priority for implementing demonstration projects under this
11 section shall be directed toward those areas of the state currently
12 in a nonattainment status with federal and state air quality
13 regulations.

14 SEC. 283. Section 25620 of the Public Resources Code is
15 amended to read:

16 25620. The Legislature hereby finds and declares all of the
17 following:

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

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

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

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

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

39 25620.1. (a) The department shall develop, implement, and
40 administer the Public Interest Research, Development, and

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

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

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

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

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

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

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

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

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

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

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

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

4 (6) Addresses key technical and scientific barriers.

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

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

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

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

15 (11) Coordinates with other related research programs.

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

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

22 25620.2. (a) To ensure the efficient implementation and
23 administration of the Public Interest Research, Development, and
24 Demonstration Program, the department shall do both of the
25 following:

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

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

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

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

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

40 (A) A clear overview explaining the proposed regulation.

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

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

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

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

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

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

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

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

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

35 (10) Notwithstanding any other provision of law, this
36 subdivision provides an interim exception from the requirements
37 of Chapter 3.5 (commencing with Section 11340) of Part 1 of
38 Division 3 of Title 2 of the Government Code for regulations
39 required to implement Sections 25620.1 and 25620.2 that are
40 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.

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

3 25620.4. (a) To the extent that intellectual property is
4 developed under this chapter, an equitable share of rights in the
5 intellectual property or in the benefits derived therefrom shall
6 accrue to the State of California.

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

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

14 25620.5. (a) The department may solicit applications for
15 awards, using a sealed competitive bid, competitive negotiation
16 process, department-issued intradepartmental master agreement,
17 the methods for selection of professional services firms set forth
18 in Chapter 10 (commencing with Section 4525) of Division 5 of
19 Title 1 of the Government Code, interagency agreement, single
20 source, or sole source method. When scoring teams are convened
21 to review and score proposals, the scoring teams may include
22 persons not employed by the department, as long as employees of
23 the state constitute no less than 50 percent of the membership of
24 the scoring team. A person participating on a scoring team may
25 not have any conflict of interest with respect to the proposal before
26 the scoring team.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 For purposes of this Section and Section 25620,
8 “California-based entity” means either of the following:

9 A corporation or other business form organized for the
10 transaction of business that has its headquarters in California and
11 manufactures in California the product that qualifies for the
12 incentive or award, or a corporation or other business form
13 organized for the transaction of business that has an office for the
14 transaction of business in California and substantially manufactures
15 in California the product that qualifies for the incentive or award,
16 or substantially develops within California the research that
17 qualifies for the incentive or award, as determined by the agency
18 issuing the incentive or award.

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

21 25620.6. The department, by action of the board and in
22 consultation with the Department of General Services, may
23 purchase insurance coverage necessary to implement an award.
24 Funding for the purchase of insurance may be made from money
25 in the Public Interest Research, Development, and Demonstration
26 Fund created pursuant to Section 384 of the Public Utilities Code.

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

29 25620.7. (a) The department, by action of the board, may
30 contract for, or through interagency agreement obtain, technical,
31 scientific, or administrative services or expertise from one or more
32 entities, to support the program. Funding for this purpose shall be
33 made from money in the Public Interest Research, Development,
34 and Demonstration Fund.

35 (b) The department, by action of the board, may select the
36 services or expertise described in subdivision (a), pursuant to
37 Section 25620.5. In the event that contracts or interagency
38 agreements have been made to multiple entities and their
39 subcontractors for similar purposes, the commission may select
40 from among those entities the particular expertise needed for a

1 specified type of work. Selection of the particular expertise may
2 be based solely on a review of qualifications, including the specific
3 expertise required, availability of the expertise, or access to a
4 resource of special relevance to the work, including, but not limited
5 to, a database, model, technical facility, or a collaborative or
6 institutional affiliation that will expedite the quality and
7 performance of the work.

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

10 25620.8. The department shall prepare and submit to the
11 Legislature an annual report that is approved by the board, not
12 later than March 31 of each year, on awards made pursuant to this
13 chapter and progress toward achieving the goals set forth in Section
14 25620.1. The report shall include information on the names of
15 award recipients, the amount of awards, and the types of projects
16 funded, an evaluation of the success of funded projects, and
17 recommendations for improvements in the program. The report
18 shall set forth the actual costs of programs or projects funded by
19 the department, the results achieved, and how the actual costs and
20 results compare to the expected costs and benefits. The department
21 shall establish procedures for protecting confidential or proprietary
22 information and shall consult with all interested parties in the
23 preparation of the annual report.

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

26 25620.11. (a) The department shall regularly convene an
27 advisory committee that shall make recommendations to guide the
28 department's selection of programs and projects to be funded under
29 this chapter. The advisory committee shall include as appropriate,
30 but not be limited to, representatives from the Public Utilities
31 Commission, consumer organizations, environmental organizations,
32 and electrical corporations subject to the funding requirements of
33 Section 381 of the Public Utilities Code.

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

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

3 25630. (a) The department shall establish a small business
4 energy assistance low-interest revolving loan program to fund the
5 purchase of equipment for alternative technology energy projects
6 for California's small businesses.

7 (b) Loan repayments, interest, and royalties shall be deposited
8 in the Energy Technologies Research, Development, and
9 Demonstration Account. The interest rate shall be based on surveys
10 of existing financial markets and at rates not lower than the Pooled
11 Money Investment Account.

12 SEC. 294. Section 25650 of the Public Resources Code is
13 amended to read:

14 25650. (a) All funds from loan repayments and interest that
15 become due and payable for loans made by the department pursuant
16 to an agriculture energy assistance program shall be deposited in
17 the Energy Technologies Research, Development, and
18 Demonstration Account, and shall be available for loans and
19 technical assistance pursuant to this section, upon appropriation
20 in the Budget Act. Up to 20 percent of the annual appropriation
21 may be available for technical assistance.

22 (b) Loans made pursuant to this section shall be for the purchase
23 of equipment and services for agriculture energy efficiency and
24 development demonstration projects, including, but not limited to,
25 production of methane or ethanol, use of wind, photovoltaics, and
26 other sources of energy for irrigation pumping, application of load
27 management conservation techniques, improvements in water
28 pumping and pressurization techniques, and conservation tillage
29 techniques.

30 (c) The loans shall contain terms that provide for a repayment
31 period of not more than seven years and for interest at a rate that
32 is not less than 2 percent below the rate earned by moneys in the
33 Pooled Money Investment Account.

34 SEC. 295. Section 25678 of the Public Resources Code is
35 amended to read:

36 25678. The department, by action of the board, shall establish
37 a grant program which provides a forty cent (\$0.40) per gallon
38 production incentive for liquid fuels fermented in this state from
39 biomass and biomass-derived resources produced in this state.
40 Eligible liquid fuels include, but are not limited to, ethanol,

1 methanol, and vegetable oils. Eligible biomass resources include,
2 but are not limited to, agricultural products and byproducts, forestry
3 products and byproducts, and industrial wastes. The board shall
4 adopt rules and regulations necessary to implement the program.
5 Prior to determining an applicant eligible for participation in the
6 production incentive program, the board shall find, among other
7 things, that the production techniques employed will lead to a net
8 increase in the amount of energy available for consumption.

9 SEC. 296. Section 25679 of the Public Resources Code is
10 amended to read:

11 25679. Applicants for a grant under this chapter shall submit
12 an application on a form prescribed by the department that is
13 responsible for administration of the program.

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

16 25696. The department may assist California-based energy
17 technology and energy conservation firms to export their
18 technologies, products, and services to international markets.

19 The department may do all of the following:

20 (a) Conduct a technical assistance program to help California
21 energy companies improve export opportunities and enhance
22 foreign buyers' awareness of and access to energy technologies
23 and services offered by California-based companies. Technical
24 assistance activities may include, but are not limited to, an energy
25 technology export information clearinghouse, a referral service, a
26 trade lead service consulting services for financing, market
27 evaluation, and legal counseling, and information seminars.

28 (b) Perform research studies and solicit technical advice to
29 identify international market opportunities.

30 (c) Assist California energy companies to evaluate project or
31 site-specific energy needs of international markets.

32 (d) Assist California energy companies to identify and address
33 international trade barriers restricting energy technology exports,
34 including unfair trade practices and discriminatory trade laws.

35 (e) Develop promotional materials in conjunction with California
36 energy companies to expand energy technology exports.

37 (f) Establish technical exchange programs to increase foreign
38 buyers' awareness of suitable energy technology uses.

39 (g) Prepare equipment performance information to enhance
40 potential export opportunities.

1 (h) Coordinate activities with state, federal, and international
2 donor agencies to take advantage of trade promotion and financial
3 assistance efforts offered.

4 SEC. 298. Section 25696.5 of the Public Resources Code is
5 amended to read:

6 25696.5. (a) Every California-based energy technology and
7 energy conservation firm awarded direct financial assistance
8 pursuant to Section 25696 shall reimburse the department for that
9 assistance, when both of the following conditions have been met:

10 (1) The assistance was substantial and essential for the
11 completion of a specific identifiable project.

12 (2) The resulting project is producing revenues.

13 (b) All moneys appropriated for purposes of this chapter and
14 all moneys received by the department as reimbursement under
15 this section shall be deposited in the Energy Resources Programs
16 Account and shall be available, when appropriated by the
17 Legislature, for the purposes of this chapter.

18 SEC. 299. Section 25697 of the Public Resources Code is
19 amended to read:

20 25697. The department shall consult with the California State
21 World Trade Commission with respect to conducting overseas
22 trade missions, trade shows, and trade exhibits. Consultation may
23 include interagency agreements, cosponsorship, and memoranda
24 of understanding for joint overseas trade activities.

25 SEC. 300. Section 25700 of the Public Resources Code is
26 amended to read:

27 25700. The department shall, in accordance with the provisions
28 of this chapter, develop contingency plans to deal with possible
29 shortages of electrical energy or fuel supplies to protect public
30 health, safety, and welfare.

31 SEC. 301. Section 25701 of the Public Resources Code is
32 amended to read:

33 25701. (a) Within six months after the effective date of this
34 division, each electric utility, gas utility, and fuel wholesaler or
35 manufacturer in the state shall prepare and submit to the department
36 a proposed emergency load curtailment plan or emergency energy
37 supply distribution plan setting forth proposals for identifying
38 priority loads or users in the event of a sudden and serious shortage
39 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

1 hearings, review the plans at least every five years from the
2 approval of the initial plan as specified in Section 25702.

3 SEC. 304. Section 25704 of the Public Resources Code is
4 amended to read:

5 25704. The department shall carry out studies to determine if
6 potential serious shortages of electrical, natural gas, or other
7 sources of energy are likely to occur and shall make
8 recommendations to the Governor and the Legislature concerning
9 administrative and legislative actions required to avert possible
10 energy supply emergencies or serious fuel shortages, including,
11 but not limited to, energy conservation and energy development
12 measures, to grant authority to specific governmental agencies or
13 officers to take actions in the event of a sudden energy shortage,
14 and to clarify and coordinate existing responsibilities for energy
15 emergency actions.

16 SEC. 305. Section 25705 of the Public Resources Code is
17 amended to read:

18 25705. (a) If the department determines that all reasonable
19 conservation, allocation, and service restriction measures may not
20 alleviate an energy supply emergency, and upon a declaration by
21 the Governor or by an act of the Legislature that a threat to public
22 health, safety, and welfare exists and requires immediate action,
23 the department shall authorize the construction and use of
24 generating facilities under terms and conditions as specified by
25 the department to protect the public interest.

26 (b) Within 60 days after the authorization of construction and
27 use of the generating facilities, the department shall issue a report
28 detailing the full nature, extent, and estimated duration of the
29 emergency situation and making recommendations to the Governor
30 and the Legislature for further energy conservation and energy
31 supply measures to alleviate the emergency situation as alternatives
32 to use of the generating facilities.

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

35 25720. (a) By January 31, 2002, the department shall examine
36 the feasibility, including possible costs and benefits to consumers
37 and impacts on fuel prices for the general public, of operating a
38 strategic fuel reserve to insulate California consumers and
39 businesses from substantial short-term price increases arising from
40 refinery outages and other similar supply interruptions. In

1 evaluating the potential operation of a strategic fuel reserve, the
2 department shall consult with other state agencies, including, but
3 not limited to, the State Air Resources Board.

4 (b) The department shall examine and recommend an appropriate
5 level of reserves of fuel, but in no event may the reserve be less
6 than the amount of refined fuel that the department estimates could
7 be produced by the largest California refiner over a two week
8 period. In making this examination and recommendation, the
9 department shall take into account all of the following:

10 (1) Inventories of California-quality fuels or fuel components
11 reasonably available to the California market.

12 (2) Current and historic levels of inventory of fuels.

13 (3) The availability and cost of storage of fuels.

14 (4) The potential for future supply interruptions, price spikes,
15 and the costs thereof to California consumers and businesses.

16 (c) The department shall evaluate a mechanism to release fuel
17 from the reserve that permits any customer to contract at any time
18 for the delivery of fuel from the reserve in exchange for an equal
19 amount of fuel that meets California specifications and is produced
20 from a source outside of California that the customer agrees to
21 deliver back to the reserve within a time period to be established
22 by the department, but not longer than six weeks.

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

25 (e) The department shall evaluate a reserve operated by an
26 independent operator that specializes in purchasing and storing
27 fuel, and is selected through competitive bidding.

28 (f) (1) Not later than January 31, 2002, the department and the
29 State Air Resources Board, in consultation with the other state and
30 local agencies the department deems necessary, shall develop and
31 adopt recommendations for the Governor and the Legislature on
32 a California Strategy to Reduce Petroleum Dependence.

33 (2) The strategy shall include a base case forecast by the
34 department of gasoline, diesel, and petroleum consumption in years
35 2010 and 2020 based on current best estimates of economic and
36 population growth, petroleum base fuel supply and availability,
37 vehicle efficiency, and utilization of alternative fuels and advanced
38 transportation technologies.

39 (3) The strategy shall include recommended statewide goals for
40 reductions in the rate of growth of gasoline and diesel fuel

1 consumption and increased transportation energy efficiency and
2 utilization of nonpetroleum based fuels and advanced transportation
3 technologies, including alternative fueled vehicles, hybrid vehicles,
4 and high fuel efficiency vehicles.

5 (g) The studies required by this section shall be conducted in
6 conjunction with any other studies required by acts enacted during
7 the 2000 portion of the 1999–2000 Regular Session dealing with
8 gasoline prices.

9 SEC. 307. Section 25721 of the Public Resources Code is
10 amended to read:

11 25721. The department shall report its findings and
12 recommendations for the purposes of Section 25720 to the
13 Governor, the Legislature, and the Attorney General by January
14 31, 2002. If the department finds that it would be feasible to operate
15 a strategic gas reserve to insulate California consumers and
16 businesses from substantial, short-term price increases arising from
17 refinery outages or other similar supply interruptions, the
18 department shall request specific statutory authority and funding
19 for establishment of a reserve.

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

22 25722. (a) On or before January 31, 2003, the department, the
23 Department of General Services, and the State Air Resources
24 Board, in consultation with any other state agency that the
25 department, the Department of General Services, and the state
26 board deem necessary, shall develop and adopt fuel-efficiency
27 specifications governing the purchase by the state of motor vehicles
28 and replacement tires that, on an annual basis, will reduce
29 petroleum consumption of the state vehicle fleet to the maximum
30 extent practicable and cost-effective.

31 (b) In developing the specifications, the department and the
32 Department of General Services shall jointly conduct a study to
33 examine state vehicle purchasing patterns, including the purchase
34 of after market tires, and to analyze the costs and benefits of
35 reducing the energy consumption of the state vehicle fleet by no
36 less than 10 percent on or before January 1, 2005.

37 (c) The study shall include an analysis of all of the following
38 topics:

39 (1) Use of alternative fuels.

40 (2) Use of fuel-efficient vehicles.

1 (3) Costs and benefits of decreasing the size of the state vehicle
2 fleet.

3 (4) Reduction in vehicle trips and increase in use of alternative
4 means of transportation.

5 (5) Improved vehicle maintenance.

6 (6) Costs and benefits of using fuel-efficient tires relative to
7 using retreaded tires, as described in the Retreaded Tire Program
8 (Chapter 7 (commencing with Section 42400) of Part 3 of Division
9 30).

10 (7) The costs and benefits of purchasing high fuel efficiency
11 gasoline vehicles, including hybrid electric vehicles, instead of
12 flexible fuel vehicles.

13 (d) On or before January 31, 2003, and annually thereafter, the
14 department, the Department of General Services, and the State Air
15 Resources Board, in consultation with any other state agency that
16 the department, the Department of General Services, and the state
17 board deem necessary, shall develop and adopt air pollution
18 emission specifications governing the purchase by the state of
19 passenger cars and light-duty trucks that meet or exceed
20 California's Ultra-Low Emission Vehicle (ULEV) standards for
21 exhaust emissions (13 Cal. Code Regs. 1960.1).

22 (e) If the study described in subdivision (b) determines that
23 lower cost measures exist that deliver petroleum reductions
24 equivalent to applicable federal requirements governing the state
25 purchase of passenger cars and light-duty trucks, the state shall
26 pursue a waiver from those federal requirements.

27 SEC. 309. Section 25722.5 of the Public Resources Code is
28 amended to read:

29 25722.5. (a) In order to achieve the policy objectives set forth
30 in Sections 25000.5 and 25722, the Department of General
31 Services, in consultation with the department and the State Air
32 Resources Board, shall develop and adopt specifications and
33 standards for all passenger cars and light-duty trucks that are
34 purchased or leased on behalf of, or by, state offices, agencies,
35 and departments. An authorized emergency vehicle, as defined in
36 Section 165 of the Vehicle Code, that is equipped with emergency
37 lamps or lights described in Section 25252 of the Vehicle Code is
38 exempt from the requirements of this section. The specifications
39 and standards shall include the following:

1 (1) Minimum air pollution emission specifications that meet or
2 exceed California's Ultra-Low Emission Vehicle II (ULEV II)
3 standards for exhaust emissions (13 Cal. Code Regs. 1961). These
4 specifications shall apply on January 1, 2006, for passenger cars
5 and on January 1, 2010, for light-duty trucks.

6 (2) Notwithstanding any other provision of law, the utilization
7 of procurement policies that enable the Department of General
8 Services to do all of the following:

9 (A) Evaluate and score emissions, fuel costs, and fuel economy
10 in addition to capital cost to enable the Department of General
11 Services to choose the vehicle with the lowest life-cycle cost when
12 awarding a state vehicle procurement contract.

13 (B) Maximize the purchase or lease of hybrid or "Best in Class"
14 vehicles that are substantially more fuel efficient than the class
15 average.

16 (C) Maximize the purchase or lease of available vehicles that
17 meet or exceed California's Super Ultra-Low Emission Vehicle
18 (SULEV) passenger car standards for exhaust emissions.

19 (D) Maximize the purchase or lease of alternative fuel vehicles.

20 (3) In order to discourage the unnecessary purchase or leasing
21 of a sport utility vehicle and a four-wheel drive truck, a requirement
22 that each state office, agency, or department seeking to purchase
23 or lease that vehicle, demonstrate to the satisfaction of the Director
24 of General Services or to the entity that purchases or leases vehicles
25 for that office, agency, or department, that the vehicle is required
26 to perform an essential function of the office, agency, or
27 department. If it is so demonstrated, priority consideration shall
28 be given to the purchase or lease of an alternative fuel or hybrid
29 sports utility vehicle or four-wheel drive vehicle.

30 (b) The specifications and standards developed and adopted
31 pursuant to subdivision (a) do not apply upon the development
32 and implementation of the method, criteria, and procedure
33 described in Section 25722.6.

34 (c) Each state office, agency, and department shall review its
35 vehicle fleet and, upon finding that it is fiscally prudent, cost
36 effective, or otherwise in the public interest to do so, shall dispose
37 of nonessential sport utility vehicles and four-wheel drive trucks
38 in its fleet and replace these vehicles with more fuel-efficient
39 passenger cars and trucks.

1 (d) To the maximum extent practicable, each state office,
2 agency, and department that has bifuel natural gas, bifuel propane,
3 and flex fuel vehicles in its vehicle fleet shall use the respective
4 alternative fuel in those vehicles.

5 (e) The Director of General Services shall compile annually and
6 maintain information on the nature of vehicles that are owned or
7 leased by the state, including, but not limited to, all of the
8 following:

9 (1) The number of passenger-type motor vehicles purchased or
10 leased during the year, and the number owned or leased as of
11 December 31 of each year.

12 (2) The number of sport utility vehicles and four-wheel drive
13 trucks purchased or leased by the state during the year, and the
14 number owned or leased as of December 31 of each year.

15 (3) The number of alternatively fueled vehicles and hybrid
16 vehicles purchased or leased by the state during the year, and the
17 total number owned or leased as of December 31 of each year and
18 their location.

19 (4) The locations of the alternative fuel pumps available for
20 those vehicles.

21 (5) The justification provided for all sport utility vehicles and
22 four-wheel drive trucks purchased or leased by the state and the
23 specific office, department, or agency responsible for the purchase
24 or lease.

25 (6) The number of sport utility vehicles and four-wheel drive
26 trucks purchased or leased by the state during the year, and the
27 number owned or leased as of December 31 of each year that are
28 alternative fuel or hybrid vehicles.

29 (7) The number of light-duty trucks disposed of under
30 subdivision (c).

31 (8) The total dollars spent by the state on passenger-type vehicle
32 purchases and leases, categorized by sport utility vehicle and
33 nonsport utility vehicle, and within each of those categories, by
34 alternative fuel, hybrid, and other.

35 (9) The total annual consumption of gasoline and diesel fuel
36 used by the state fleet.

37 (10) The total annual consumption of alternative fuels.

38 (11) On December 31, 2009, and annually thereafter, the
39 Director of General Services shall also compile the total annual
40 vehicle miles traveled by vehicles in the state fleet.

1 (f) Each state office, agency, and department shall cooperate
2 with the Department of General Services' data requests in order
3 that the department may compile and maintain the information
4 required in subdivision (e).

5 (g) As soon as practicable, but no later than 12 months after
6 receiving the data, the information compiled and maintained under
7 subdivision (e) and a list of those state offices, agencies, and
8 departments that are not in compliance with subdivision (f) shall
9 be made available to the public on the Department of General
10 Services' Internet Web site.

11 (h) Beginning July 1, 2009, and every three years thereafter,
12 the Director of General Services shall report to the Legislature and
13 the Governor the information compiled and maintained pursuant
14 to subdivision (e).

15 (i) Pursuant to Article IX of the California Constitution, this
16 section shall not apply to the University of California except to
17 the extent that the Regents of the University of California, by
18 appropriate resolution, make this section applicable.

19 SEC. 310. Section 25722.6 of the Public Resources Code is
20 amended to read:

21 25722.6. (a) On or before December 31, 2008, the Department
22 of General Services, in conjunction with the State Air Resources
23 Board and the department, shall amend the existing "Enhanced
24 Efficiency Costing Methodology for Passenger Cars and
25 Light-Duty Vehicles" to rank the environmental and energy
26 benefits, and costs of motor vehicles for potential procurement by
27 state and local governments. The vehicle rankings shall include
28 both of the following criteria:

29 (1) The reduction in greenhouse gas emissions, air pollutant
30 emissions, and petroleum use on a full fuel-cycle basis, to the
31 extent possible, based on existing data available to the State Air
32 Resources Board, the department, or other reliable sources,
33 including the California Strategy to Reduce Petroleum Dependence
34 developed pursuant to subdivision (f) of Section 25720 and the
35 state plan to increase the use of alternative transportation fuels
36 developed pursuant to Section 43866 of the Health and Safety
37 Code.

38 (2) The life-cycle costs of the vehicle and fuel, including
39 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

1 of General Services shall consider requesting competitive bids for
2 alternative fuel infrastructure that would meet the needs of vehicles
3 used, or planned to be used, in that facility.

4 (g) Authorized emergency vehicles as defined in Section 165
5 of the Vehicle Code, that are equipped with emergency lamps or
6 lights described in Section 25252 of the Vehicle Code, are exempt
7 from the requirements of this section.

8 (h) Each state office, agency, or department seeking to purchase
9 or lease a sport utility vehicle or four-wheel drive vehicle shall
10 demonstrate to the satisfaction of the Director of General Services
11 or the entity that purchases or leases vehicles that the vehicle is
12 required to perform an essential function of the office, agency, or
13 department. If it is so demonstrated, priority consideration shall
14 be given to the purchase or lease of an alternative fuel or hybrid
15 sports utility vehicle or four-wheel drive vehicle.

16 (i) Pursuant to Article IX of the California Constitution, this
17 section shall not apply to the University of California except to
18 the extent that the Regents of the University of California, by
19 appropriate resolution, make this section applicable.

20 SEC. 311. Section 25722.7 of the Public Resources Code is
21 amended to read:

22 25722.7. (a) In order to further achieve the policy objectives
23 set forth in Sections 25000.5, 25722, and 25722.5, on or before
24 June 1, 2007, the Department of General Services in consultation
25 with the Department of Energy shall establish a minimum fuel
26 economy standard that is above the standard, as it exists on January
27 1, 2007, established pursuant to Section 3620.1 of the State
28 Administrative Manual, for the purchase of passenger vehicles
29 and light-duty trucks for the state fleet that are powered solely by
30 internal combustion engines utilizing fossil fuels.

31 (b) On or after January 1, 2008, all new state fleet purchases of
32 passenger vehicles and light-duty trucks powered solely by internal
33 combustion engines utilizing fossil fuels, by the Department of
34 General Services and any other state entities shall meet the fuel
35 economy standard established under subdivision (a).

36 (c) Authorized emergency vehicles, as defined in Section 165
37 of the Vehicle Code, and vehicles identified in paragraph (3) of
38 subdivision (a) of Section 25722.5 are exempt from this section.

39 (d) Vehicles purchased, that are modified for the following
40 purposes, are exempt from this section.

1 (1) To provide services by a state entity to an individual with a
2 disability or a developmental disability, as defined under the
3 statutes or regulations governing that state entity.

4 (2) As a reasonable accommodation for the known physical or
5 mental disability, as defined in Section 12926 of the Government
6 Code, of an employee.

7 (e) For purposes of this section, “state entities” includes all state
8 departments, boards, commissions, programs, and other
9 organizational units of the executive, legislative, and judicial
10 branches of state government, the California Community Colleges,
11 the California State University, and the University of California.

12 (f) This section shall not apply to the University of California
13 except to the extent that the Regents of the University of California,
14 by appropriate resolution, make that provision applicable.

15 SEC. 312. Section 25723 of the Public Resources Code is
16 amended to read:

17 25723. On or before January 31, 2003, the department, in
18 consultation with any other state agency that the department deems
19 necessary, shall develop and adopt recommendations for
20 consideration by the Governor and the Legislature of a California
21 State Fuel-Efficient Tire Program. The department shall make
22 recommendations on all of the following items:

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

25 (b) Development of a database of fuel efficiency of existing
26 tires in order to establish an accurate baseline of tire efficiency.

27 (c) A rating system for tires that provides consumers with
28 information on the fuel efficiency of individual tire models.

29 (d) A consumer-friendly system to disseminate tire
30 fuel-efficiency information as broadly as possible. The department
31 shall consider labeling, Internet Web site listing, printed fuel
32 economy guide booklets, and mandatory requirements for tire
33 retailers to provide fuel-efficiency information.

34 (e) A study to determine the safety implications, if any, of
35 different policies to promote fuel efficient replacement tires in the
36 consumer market.

37 (f) A mandatory fuel-efficiency standard for all after market
38 tires sold in California.

1 (g) Consumer incentive programs that would offer a rebate to
2 purchasers of replacement tires that are more fuel efficient than
3 the average replacement tire.

4 SEC. 313. Section 25740.5 of the Public Resources Code is
5 amended to read:

6 25740.5. (a) The department, by action of the board, shall
7 optimize public investment and ensure that the most cost-effective
8 and efficient investments in renewable energy resources are
9 vigorously pursued.

10 (b) The department's long-term goal shall be a fully competitive
11 and self-sustaining supply of electricity generated from renewable
12 sources.

13 (c) The program objective shall be to increase, in the near term,
14 the quantity of California's electricity generated by in-state
15 renewable electricity generation facilities, while protecting system
16 reliability, fostering resource diversity, and obtaining the greatest
17 environmental benefits for California residents.

18 (d) An additional objective of the program shall be to identify
19 and support emerging renewable technologies in distributed
20 generation applications that have the greatest near-term commercial
21 promise and that merit targeted assistance.

22 (e) The Legislature recommends allocations among all of the
23 following:

24 (1) Rebates, buydowns, or equivalent incentives for emerging
25 renewable technologies.

26 (2) Customer education.

27 (3) Production incentives for reducing fuel costs, that are
28 confirmed to the satisfaction of the department, at solid fuel
29 biomass energy facilities in order to provide demonstrable
30 environmental and public benefits, including improved air quality.

31 (4) Solar thermal generating resources that enhance the
32 environmental value or reliability of the electrical system and that
33 require financial assistance to remain economically viable, as
34 determined by the department, by action of the board. The
35 department, by action of the board, may require financial disclosure
36 from applicants for purposes of this paragraph.

37 (5) Specified fuel cell technologies, if the department makes all
38 of the following findings:

1 (A) The specified technologies have similar or better air
2 pollutant characteristics than renewable technologies in the report
3 made pursuant to Section 25748.

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

7 (C) The specified technologies could contribute significantly
8 to the infrastructure development or other innovation required to
9 meet the long-term objective of a self-sustaining, competitive
10 supply of electricity generated from renewable sources.

11 (6) Existing wind-generating resources, if the department, by
12 action of the board, finds that the existing wind-generating
13 resources are a cost-effective source of reliable energy and
14 environmental benefits compared with other in-state renewable
15 electricity generation facilities, and that the existing
16 wind-generating resources require financial assistance to remain
17 economically viable. The department may require financial
18 disclosure from applicants for the purposes of this paragraph.

19 (f) Notwithstanding any other provision of law, moneys
20 collected for renewable energy pursuant to Article 15 (commencing
21 with Section 399) of Chapter 2.3 of Part 1 of Division 1 of the
22 Public Utilities Code shall be transferred to the Renewable
23 Resource Trust Fund. Moneys collected between January 1, 2007,
24 and January 1, 2012, shall be used for the purposes specified in
25 this chapter.

26 SEC. 314. Section 25741 of the Public Resources Code is
27 amended to read:

28 25741. As used in this chapter, the following terms have the
29 following meanings:

30 (a) “Delivered” and “delivery” mean the electricity output of
31 an in-state renewable electricity generation facility that is used to
32 serve end-use retail customers located within the state. Subject to
33 verification by the accounting system established by the department
34 pursuant to subdivision (b) of Section 399.13 of the Public Utilities
35 Code, electricity shall be deemed delivered if it is either generated
36 at a location within the state, or is scheduled for consumption by
37 California end-use retail customers. Subject to criteria adopted by
38 the department, electricity generated by an eligible renewable
39 energy resource may be considered “delivered” regardless of

1 whether the electricity is generated at a different time from
2 consumption by a California end-use customer.

3 (b) “In-state renewable electricity generation facility” means a
4 facility that meets all of the following criteria:

5 (1) The facility uses biomass, solar thermal, photovoltaic, wind,
6 geothermal, fuel cells using renewable fuels, small hydroelectric
7 generation of 30 megawatts or less, digester gas, municipal solid
8 waste conversion, landfill gas, ocean wave, ocean thermal, or tidal
9 current, and any additions or enhancements to the facility using
10 that technology.

11 (2) The facility satisfies one of the following requirements:

12 (A) The facility is located in the state or near the border of the
13 state with the first point of connection to the transmission network
14 within this state and electricity produced by the facility is delivered
15 to an in-state location.

16 (B) The facility has its first point of interconnection to the
17 transmission network outside the state and satisfies all of the
18 following requirements:

19 (i) It is connected to the transmission network within the
20 Western Electricity Coordinating Council (WECC) service
21 territory.

22 (ii) It commences initial commercial operation after January 1,
23 2005.

24 (iii) Electricity produced by the facility is delivered to an in-state
25 location.

26 (iv) It will not cause or contribute to any violation of a California
27 environmental quality standard or requirement.

28 (v) If the facility is outside of the United States, it is developed
29 and operated in a manner that is as protective of the environment
30 as a similar facility located in the state.

31 (vi) It participates in the accounting system to verify compliance
32 with the renewables portfolio standard by retail sellers, once
33 established by the Department of Energy pursuant to subdivision
34 (b) of Section 399.13 of the Public Utilities Code.

35 (C) The facility meets the requirements of clauses (i), (iii), (iv),
36 (v), and (vi) in subparagraph (B), but does not meet the
37 requirements of clause (ii) because it commences initial operation
38 prior to January 1, 2005, if the facility satisfies either of the
39 following requirements:

1 (i) The electricity is from incremental generation resulting from
2 expansion or repowering of the facility.

3 (ii) The facility has been part of the existing baseline of eligible
4 renewable energy resources of a retail seller established pursuant
5 to paragraph (2) of subdivision (b) of Section 399.15 of the Public
6 Utilities Code or has been part of the existing baseline of eligible
7 renewable energy resources of a local publicly owned electric
8 utility established pursuant to Section 387 of the Public Utilities
9 Code.

10 (3) For the purposes of this subdivision, “solid waste
11 conversion” means a technology that uses a noncombustion thermal
12 process to convert solid waste to a clean-burning fuel for the
13 purpose of generating electricity, and that meets all of the following
14 criteria:

15 (A) The technology does not use air or oxygen in the conversion
16 process, except ambient air to maintain temperature control.

17 (B) The technology produces no discharges of air contaminants
18 or emissions, including greenhouse gases as defined in Section
19 38505 of the Health and Safety Code.

20 (C) The technology produces no discharges to surface waters
21 or groundwaters of the state.

22 (D) The technology produces no hazardous wastes.

23 (E) To the maximum extent feasible, the technology removes
24 all recyclable materials and marketable green waste compostable
25 materials from the solid waste stream prior to the conversion
26 process and the owner or operator of the facility certifies that those
27 materials will be recycled or composted.

28 (F) The facility at which the technology is used is in compliance
29 with all applicable laws, regulations, and ordinances.

30 (G) The technology meets any other conditions established by
31 the department.

32 (H) The facility certifies that any local agency sending solid
33 waste to the facility diverted at least 30 percent of all solid waste
34 it collects through solid waste reduction, recycling, and
35 composting. For purposes of this paragraph, “local agency” means
36 any city, county, or special district, or subdivision thereof, which
37 is authorized to provide solid waste handling services.

38 (c) “Procurement entity” means any person or corporation that
39 enters into an agreement with a retail seller to procure eligible

1 renewable energy resources pursuant to subdivision (f) of Section
2 399.14 of the Public Utilities Code.

3 (d) “Renewable energy public goods charge” means that portion
4 of the nonbypassable system benefits charge authorized to be
5 collected and to be transferred to the Renewable Resource Trust
6 Fund pursuant to the Reliable Electric Service Investments Act
7 (Article 15 (commencing with Section 399) of Chapter 2.3 of Part
8 1 of Division 1 of the Public Utilities Code).

9 (e) “Report” means the report entitled “Investing in Renewable
10 Electricity Generation in California” (June 2001, Publication
11 Number P500-00-022) submitted to the Governor and the
12 Legislature by the former State Energy Resources Conservation
13 and Development Commission.

14 (f) “Retail seller” means a “retail seller” as defined in Section
15 399.12 of the Public Utilities Code.

16 SEC. 315. Section 25742 of the Public Resources Code is
17 amended to read:

18 25742. (a) Twenty percent of the funds collected pursuant to
19 the renewable energy public goods charge shall be used for
20 programs that are designed to achieve fully competitive and
21 self-sustaining existing in-state renewable electricity generation
22 facilities, and to secure for the state the environmental, economic,
23 and reliability benefits that continued operation of those facilities
24 will provide during the 2007–2011 investment cycle. Eligibility
25 for production incentives under this section shall be limited to
26 those technologies found eligible for funds by the department
27 pursuant to paragraphs (3), (4), and (6) of subdivision (e) of Section
28 25740.5.

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

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

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

40 (2) Is used onsite.

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

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

8 (e) Each existing facility seeking an award pursuant to this
9 section shall be evaluated by the department to determine the
10 amount of the funds being sought, the cumulative amount of funds
11 the facility has received previously from the department and other
12 state sources, the value of any past and current federal or state tax
13 credits, the facility's contract price for energy and capacity, the
14 prices received by similar facilities, the market value of the facility,
15 and the likelihood that the award will make the facility competitive
16 and self-sustaining within the 2007–2011 investment cycle. The
17 department shall use this evaluation to determine the value of an
18 award to the public relative to other renewable energy investment
19 alternatives. The department shall compile its findings and report
20 them to the Legislature in the reports prepared pursuant to Section
21 25748 and approved by the board.

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

24 25743. (a) The department, by action of the board, shall
25 terminate all production incentives awarded from the New
26 Renewable Resources Account prior to January 1, 2002, unless
27 the project began generating electricity by January 1, 2007.

28 (b) (1) The department, by action of the board, shall, by March
29 1, 2008, transfer to electrical corporations serving customers
30 subject to the renewable energy public goods charge the remaining
31 unencumbered funds in the New Renewable Resources Account.

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

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

39 25744. (a) Seventy-nine percent of the money collected
40 pursuant to the renewable energy public goods charge shall be

1 used for a multiyear, consumer-based program to foster the
2 development of emerging renewable technologies in distributed
3 generation applications.

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

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

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

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

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

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

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

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

37 (7) At least once annually, the department shall publish and
38 make available to the public the balance of funds available for
39 emerging renewable energy resources for rebates, buydowns, and
40 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

1 applicant to apply for, or become or remain eligible and registered
2 to receive, payments or awards, including satisfying conditions
3 specified by the board, shall not constitute the rendering of goods,
4 services, or a direct benefit to the department of the board.

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

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

10 25748. (a) The department, by action of the board, shall report
11 to the Legislature on or before November 1, 2007, and annually
12 thereafter, regarding the results of the mechanisms funded pursuant
13 to this chapter. The report shall contain all of the following:

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

18 (2) The status of account transfers and repayments.

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

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

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

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

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

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

36 (b) Money may be reallocated without further legislative action
37 among existing, new, and emerging technologies and
38 consumer-side programs in a manner consistent with the report
39 and with the latest report provided to the Legislature pursuant to

1 this section, except that reallocations shall not increase the
2 allocation established in Section 25742.

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

5 25751. (a) The Renewable Resource Trust Fund is hereby
6 created in the State Treasury.

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

9 (1) Existing Renewable Resources Account.

10 (2) Emerging Renewable Resources Account.

11 (3) Renewable Resources Consumer Education Account.

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

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

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

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

35 (e) Upon notification by the department, the Controller shall
36 pay all awards of the money in the accounts created pursuant to
37 subdivision (b) for purposes enumerated in this chapter. The
38 eligibility of each award shall be determined solely by the
39 department, by action of the board, based on the procedures it
40 adopts under this chapter. Based on the eligibility of each award,

1 the department shall also establish the need for a multiyear
2 commitment to any particular award and so advise the Department
3 of Finance. Eligible awards submitted by the department to the
4 Controller shall be accompanied by information specifying the
5 account from which payment should be made and the amount of
6 each payment; a summary description of how payment of the award
7 furthers the purposes enumerated in this chapter; and an accounting
8 of future costs associated with any award or group of awards known
9 to the department to represent a portion of a multiyear funding
10 commitment.

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

15 (g) The Department of Finance shall conduct an independent
16 audit of the Renewable Resource Trust Fund and its related
17 accounts annually, and provide an audit report to the Legislature
18 not later than March 1 of each year for which this article is
19 operative. The Department of Finance's report shall include
20 information regarding revenues, payment of awards, reserves held
21 for future commitments, unencumbered cash balances, and other
22 matters that the Director of Finance determines may be of
23 importance to the Legislature.

24 SEC. 322. Section 25770 of the Public Resources Code is
25 amended to read:

26 25770. For the purposes of this chapter, the following terms
27 have the following meanings:

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

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

39 (c) "Replacement tire" means a tire sold in the state that is
40 designed to replace a tire sold with a new passenger car or

1 light-duty truck. "Replacement tire" does not include any of the
2 following tires:

3 (1) A tire or group of tires with the same SKU, plant, and year,
4 for which the volume of tires produced or imported is less than
5 15,000 annually.

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

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

9 (4) A motorcycle tire.

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

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

14 25771. On or before July 1, 2006, the department shall develop
15 and adopt all of the following:

16 (a) A database of the energy efficiency of a representative
17 sample of replacement tires sold in the state, based on test
18 procedures adopted by the department.

19 (b) Based on the data collected pursuant to subdivision (a), a
20 rating system for the energy efficiency of replacement tires sold
21 in the state, that will enable consumers to make more informed
22 decisions when purchasing tires for their vehicles.

23 (c) Based on the test procedures adopted pursuant to subdivision
24 (a) and the rating system established pursuant to subdivision (b),
25 requirements for tire manufacturers to report to the department the
26 energy efficiency of replacement tires sold in the state.

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

29 25772. On or before July 1, 2007, the department by action of
30 the board and in consultation with the Department of Resources
31 Recovery and Recycling, shall, after appropriate notice and
32 workshops, adopt and, on or before July 1, 2008, implement a tire
33 energy efficiency program of statewide applicability for
34 replacement tires, designed to ensure that replacement tires sold
35 in the state are at least as energy efficient, on average, as tires sold
36 in the state as original equipment on new passenger cars and
37 light-duty trucks.

38 SEC. 325. Section 25773 of the Public Resources Code is
39 amended to read:

1 25773. (a) The program described in Section 25772 shall
2 include all of the following:

3 (1) The development and adoption of minimum energy
4 efficiency standards for replacement tires, except to the extent that
5 the department determines that it is unable to do so in a manner
6 that complies with subparagraphs (A) to (E), inclusive. Energy
7 efficiency standards adopted pursuant to this paragraph shall meet
8 all of the following conditions:

9 (A) Be technically feasible and cost effective.

10 (B) Not adversely affect tire safety.

11 (C) Not adversely affect the average tire life of replacement
12 tires.

13 (D) Not adversely affect state efforts to manage scrap tires
14 pursuant to Chapter 17 (commencing with Section 42860) of Part
15 3 of Division 30.

16 (2) The development and adoption of consumer information
17 requirements for replacement tires for which standards have been
18 adopted pursuant to paragraph (1).

19 (b) The energy efficiency standards established pursuant to
20 paragraph (1) of subdivision (a) shall be based on the results of
21 laboratory testing and, to the extent it is available and deemed
22 appropriate by the department, an onroad fleet testing program
23 developed by tire manufacturers in consultation with the
24 department and the Department of Resources Recovery and
25 Recycling, conducted by tire manufacturers, and submitted to the
26 department on or before January 1, 2006.

27 (c) If the department finds that tires used to equip an authorized
28 emergency vehicle, as defined in Section 165 of the Vehicle Code,
29 are unable to meet the standards established pursuant to paragraph
30 (1) of subdivision (a), the department shall authorize an operator
31 of an authorized emergency vehicle fleet to purchase for those
32 vehicles tires that do not meet those standards.

33 (d) The department, by action of the board, in consultation with
34 the Department of Resources Recovery and Recycling, shall review
35 and revise the program, including any standards adopted pursuant
36 to the program, as necessary, but not less than once every three
37 years. The department may not revise the program or standards in
38 a way that reduces the average efficiency of replacement tires.

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

1 25782. (a) The department, by the action of the board shall,
2 by January 1, 2008, in consultation with the Public Utilities
3 Commission, local publicly owned electric utilities, and interested
4 members of the public, establish eligibility criteria for solar energy
5 systems receiving ratepayer funded incentives that include all of
6 the following:

7 (1) Design, installation, and electrical output standards or
8 incentives.

9 (2) The solar energy system is intended primarily to offset part
10 or all of the consumer's own electricity demand.

11 (3) All components in the solar energy system are new and
12 unused, and have not previously been placed in service in any
13 other location or for any other application.

14 (4) The solar energy system has a warranty of not less than 10
15 years to protect against defects and undue degradation of electrical
16 generation output.

17 (5) The solar energy system is located on the same premises of
18 the end-use consumer where the consumer's own electricity
19 demand is located.

20 (6) The solar energy system is connected to the electrical
21 corporation's electrical distribution system within the state.

22 (7) The solar energy system has meters or other devices in place
23 to monitor and measure the system's performance and the quantity
24 of electricity generated by the system.

25 (8) The solar energy system is installed in conformance with
26 the manufacturer's specifications and in compliance with all
27 applicable electrical and building code standards.

28 (b) The department, by the action of the board shall establish
29 conditions on ratepayer funded incentives that require all of the
30 following:

31 (1) Appropriate siting and high quality installation of the solar
32 energy system by developing installation guidelines that maximize
33 the performance of the system and prevent qualified systems from
34 being inefficiently or inappropriately installed. The conditions
35 established by the department, by the action of the board shall not
36 impact housing designs or densities presently authorized by a city,
37 county, or city and county. The goal of this paragraph is to achieve
38 efficient installation of solar energy systems to promote the greatest
39 energy production per ratepayer dollar.

1 (2) Optimal solar energy system performance during periods of
2 peak electricity demand.

3 (3) Appropriate energy efficiency improvements in the new or
4 existing home or commercial structure where the solar energy
5 system is installed.

6 (c) The department, by the action of the board shall set rating
7 standards for equipment, components, and systems to ensure
8 reasonable performance and shall develop standards that provide
9 for compliance with the minimum ratings.

10 (d) Upon establishment of eligibility criteria pursuant to
11 subdivision (a), a ratepayer funded incentives shall not be made
12 for a solar energy system that fails to meet the eligibility criteria.

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

15 25783. The department, by the action of the board shall do all
16 the following:

17 (a) Publish educational materials designed to demonstrate how
18 builders may incorporate solar energy systems during construction
19 as well as energy efficiency measures that best complement solar
20 energy systems.

21 (b) Develop and publish the estimated annual electrical
22 generation and savings for solar energy systems. The estimates
23 shall vary by climate zone, type of system, size, life cycle costs,
24 electricity prices, and other factors the department determines to
25 be relevant to a consumer when making a purchasing decision.

26 (c) Provide assistance to builders and contractors. The assistance
27 may include technical workshops, training, educational materials,
28 and related research.

29 (d) The department shall annually conduct random audits of
30 solar energy systems to evaluate their operational performance.

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

33 25784. The department, by action of the board, shall adopt
34 guidelines for solar energy systems receiving ratepayer funded
35 incentives at a publicly noticed meeting offering all interested
36 parties an opportunity to comment. Not less than 30 days' public
37 notice shall be given of the meeting required by this section, before
38 the board initially adopts guidelines. Substantive changes to the
39 guidelines shall not be adopted without at least 10 days' written
40 notice to the public. Notwithstanding any other provision of law,

1 any guidelines adopted pursuant to this chapter shall be exempt
2 from the requirements of Chapter 3.5 (commencing with Section
3 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

4 SEC. 329. Section 25802 of the Public Resources Code is
5 amended to read:

6 25802. (a) A person who submits to the department a notice
7 of intent for any proposed generating facility shall accompany the
8 notice with a fee of one cent (\$0.01) per kilowatt of net electric
9 capacity of the proposed generation facility. The fee shall only be
10 paid on one of the alternate proposed facility sites that has the
11 highest electrical designed capacity. In no event shall the fee be
12 less than one thousand dollars (\$1,000) nor more than twenty-five
13 thousand dollars (\$25,000).

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

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

19 25803. Funds received by the department pursuant to Section
20 25802, shall be remitted to the State Treasurer for deposit in the
21 account. All funds in the account shall be expended for purposes
22 of carrying out the provisions of this division, when appropriated
23 by the Legislature in the Budget Act.

24 SEC. 331. Section 25806 of the Public Resources Code is
25 amended to read:

26 25806. (a) A person who submits to the department an
27 application for certification by the board for a proposed generating
28 facility shall submit with the application a fee of one hundred
29 thousand dollars (\$100,000) plus two hundred fifty dollars (\$250)
30 per megawatt of gross generating capacity of the proposed facility.
31 The total fee accompanying an application may not exceed three
32 hundred fifty thousand dollars (\$350,000).

33 (b) A person who receives certification of a proposed generating
34 facility shall pay an annual fee of fifteen thousand dollars
35 (\$15,000). The first payment of the annual fee is due on the date
36 this section takes effect. For a facility certified on or after the
37 effective date of this section, the first payment of the annual fee
38 is due on the date the board adopts the final decision. All
39 subsequent payments are due by July 1 of each year in which the

1 facility retains its certification. The fiscal year for the annual fee
2 is July 1 to June 30, inclusive.

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

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

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

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

23 25900. Except as provided in Section 25531, whenever the
24 department, by the action of the board, finds that any provision of
25 this division is violated or a violation is threatening to take place
26 that constitutes an emergency requiring immediate action to protect
27 the public health, welfare, or safety, the Attorney General, upon
28 request of the department or the board, shall petition a court to
29 enjoin the violation. The court shall have jurisdiction to grant
30 prohibitory or mandatory injunctive relief as may be warranted by
31 way of temporary restraining order, preliminary injunction, and
32 permanent injunction.

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

35 25901. (a) Within 30 days after the department, including the
36 board, issues its determination on any matter specified in this
37 division, except as provided in Section 25531, any aggrieved
38 person may file with the superior court a petition for a writ of
39 mandate for review of the determination. Failure to file this petition
40 does not preclude a person from challenging the reasonableness

1 and validity of a decision in any judicial proceedings brought to
2 enforce the decision or to obtain other civil remedies.

3 (b) The decision of the department or the board shall be
4 sustained by the court unless the court finds (1) that the department
5 or the board proceeded without, or in excess of its jurisdiction, (2)
6 that, based exclusively upon a review of the record before the
7 department or the board, the decision is not supported by
8 substantial evidence in light of the whole record, or (3) that the
9 department or the board failed to proceed in the manner required
10 by law.

11 (c) Except as otherwise provided in this section, subdivisions
12 (f) and (g) of Section 1094.5 of the Code of Civil Procedure govern
13 proceedings pursuant to this section.

14 (d) The amendment of this section made at the 1989–90 Regular
15 Session of the Legislature does not constitute a change in, but is
16 declaratory of, existing law.

17 SEC. 334. Section 25902 of the Public Resources Code is
18 amended to read:

19 25902. Any evaluations in the reports required by Section
20 25302 and any findings and determinations on the notice of intent
21 pursuant to Chapter 6 (commencing with Section 25500) shall not
22 be construed as a final evaluation, finding, or determination by the
23 department or the board and a court action may not be brought to
24 review the evaluation, finding, or determination.

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

27 25910. The department shall, by regulation adopted by the
28 board, establish minimum standards for the amount of additional
29 insulation (expressed in terms of R-value) installed in existing
30 buildings. One year after the adoption of those standards, no
31 insulation shall be installed in any existing building by a contractor
32 unless the contractor certifies to the customer in writing that the
33 amount of insulation (expressed in terms of R-value) meets or
34 exceeds the minimum amount established by the standards. The
35 minimum standards may vary for different types of buildings or
36 building occupancies and different climate zones in the state. The
37 minimum standards shall be economically feasible in that the
38 resultant savings in energy procurement costs shall be greater than
39 the cost of the insulation to the customer amortized over the useful
40 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.

1 (2) Reasonable estimates of potential utility bill savings, and
2 reliable recommendations on cost-effective measures to improve
3 energy efficiency.

4 (3) Training and certification procedures for home raters and
5 quality assurance procedures to promote accurate ratings and to
6 protect consumers.

7 (4) In coordination with home energy rating service organization
8 data bases, procedures to establish a centralized, publicly
9 accessible, data base that includes a uniform reporting system for
10 information on residential dwellings, excluding proprietary
11 information, needed to facilitate the program. There shall be no
12 public access to information in the data base concerning specific
13 dwellings without the owner's or occupant's permission.

14 (5) Labeling procedures that will meet the needs of home buyers,
15 homeowners, renters, the real estate industry, and mortgage lenders
16 with an interest in home energy ratings.

17 (b) The department shall adopt the program pursuant to
18 subdivision (a) in consultation with representatives of the
19 Department of Real Estate, the Department of Housing and
20 Community Development, the Public Utilities Commission,
21 investor-owned and municipal utilities, cities and counties, real
22 estate licensees, home builders, mortgage lenders, home appraisers
23 and inspectors, home energy rating organizations, contractors who
24 provide home energy services, consumer groups, and
25 environmental groups.

26 (c) On and after January 1, 1996, no home energy rating services
27 may be performed in this state unless the services have been
28 certified, if a certification program is available, by the department
29 to be in compliance with the program criteria specified in
30 subdivision (a) and, in addition, are in conformity with any other
31 applicable element of the program.

32 (d) On or before July 1, 1996, the department shall consult with
33 the agencies and organizations described in subdivision (b), to
34 facilitate a public information program to inform homeowners,
35 rental property owners, renters, sellers, and others of the existence
36 of the statewide home energy rating program adopted by the
37 department.

38 (e) Beginning with the 1998 biennial energy conservation report
39 required by Section 25401.1, the department shall, as part of that
40 biennial report prepared pursuant to Section 25302, report on the

1 progress made to implement a statewide home energy rating
2 program. The report shall include an evaluation of the energy
3 savings attributable to the program, and a recommendation
4 concerning which means and methods will be most efficient and
5 cost-effective to induce home energy ratings for residential
6 dwellings.

7 SEC. 339. Section 25943 of the Public Resources Code is
8 amended to read:

9 25943. (a) (1) By March 1, 2010, the department, by action
10 of the board, shall establish a regulatory proceeding to develop
11 and implement a comprehensive program to achieve greater energy
12 savings in California's existing residential and nonresidential
13 building stock. This program shall comprise a complementary
14 portfolio of techniques, applications, and practices that will achieve
15 greater energy efficiency in existing residential and nonresidential
16 structures that fall significantly below the current standards in Title
17 24 of the California Code of Regulations, as determined by the
18 department.

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

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

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

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

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

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

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

6 (3) The various climatic zones within the state.

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

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

14 (A) Prioritizing the identified energy efficiency improvements.

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

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

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

20 (i) Mortgages or sales agreement components.

21 (ii) On-bill financing.

22 (iii) Contractual property tax assessments.

23 (iv) Home warranties.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

35 (i) The department shall fund activities undertaken pursuant to
36 this section from the Federal Trust Fund consistent with the federal
37 American Recovery and Reinvestment Act of 2009 (Public Law
38 111-5) or other sources of nonstate funds available to the
39 department for the purposes of this section.

1 (j) For purposes of this section, “energy assessment” means a
2 determination of an energy user’s energy consumption level,
3 relative efficiency compared to other users, and opportunities to
4 achieve greater efficiency or improve energy resource utilization.

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

7 25960. A new residential-type gas appliance that is equipped
8 with a pilot light shall not be sold in the state after an alternate
9 means has been certified by the board. This prohibition shall
10 become operative 24 months after an intermittent ignition device
11 has been demonstrated and certified by the board as an alternate
12 means. The board may determine, after demonstration, that there
13 is no feasible alternative means to the use of pilot light or that the
14 use of a pilot light is necessary for public health and safety.

15 SEC. 341. Section 25961 of the Public Resources Code is
16 amended to read:

17 25961. The department, by action of the board, shall, on or
18 before January 1, 1976, develop in cooperation with affected
19 industry and consumer representatives, who will be designated as
20 such representatives by the board, the specifications for certification
21 of intermittent ignition devices that shall not significantly affect
22 the price of gas appliances in competition with similar electrical
23 appliances. The specification shall be developed so as to result in
24 the conservation of primary energy resources, shall include
25 provisions necessary for public health and safety, and shall give
26 due consideration to the initial costs, including installation and
27 maintenance costs imposed upon the consumer.

28 SEC. 342. Section 25962 of the Public Resources Code is
29 amended to read:

30 25962. Within 90 days after an intermittent ignition device has
31 been certified by the board, the department shall notify all gas
32 appliance manufacturers doing business in the state, as to the
33 prohibition of affected pilot lights and shall inform the
34 manufacturers of the devices available to comply with this article.

35 SEC. 343. Section 25963 of the Public Resources Code is
36 amended to read:

37 25963. The department shall create a seal of certification and
38 shall distribute the seal to every manufacturer that complies with
39 this article. The seal shall be affixed to every new appliance sold
40 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

1 attorney or city prosecutor, one-half of the penalty shall be paid
2 to the treasurer of the county and one-half to the city.

3 (c) If the action is brought at the request of the department or
4 the board, the court shall determine the reasonable expenses
5 incurred by the department or the board in the investigation and
6 prosecution of the action.

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

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

12 25968. Any inspector appointed or authorized by the
13 department or the board shall have access to the premises,
14 equipment, materials, partly finished and finished articles, and
15 records of any person subject to this chapter.

16 SEC. 348. Section 26004 of the Public Resources Code is
17 amended to read:

18 26004. (a) There is in the state government the California
19 Alternative Energy and Advanced Transportation Financing
20 Authority. The authority constitutes a public instrumentality and
21 the exercise by the authority of powers conferred by this division
22 is the performance of an essential public function.

23 (b) The authority shall consist of five members, as follows:

- 24 (1) The Director of Finance.
25 (2) The Secretary of the Department of Energy.
26 (3) The President of the Public Utilities Commission.
27 (4) The Controller.
28 (5) The Treasurer, who shall serve as the chairperson of the
29 authority.

30 (c) The members listed in paragraphs (1) to (5), inclusive, of
31 subdivision (b) may each designate a deputy or clerk in his or her
32 agency to act for and represent the member at all meetings of the
33 authority.

34 (d) The first meeting of the authority shall be convened by the
35 Treasurer.

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

38 26011.5. The authority, in consultation with the Department
39 of Energy, shall establish criteria for the selection of projects to
40 receive financing assistance from the authority. In the selection of

1 projects, the authority shall, in accordance with the legislative
2 intent, provide financial assistance under this division in a manner
3 consistent with sound financial practice. In developing project
4 selection criteria, the authority shall consider, but not be limited
5 to, all of the following:

6 (a) The technological feasibility of the projects.

7 (b) The economic soundness of the projects and a realistic
8 expectation that all financial obligations can and will be met by
9 the participating parties.

10 (c) The contribution that the projects can make to a reduction
11 or more efficient use of fossil fuels.

12 (d) The contribution that the project can make toward
13 diversifying California's energy resources by fostering renewable
14 energy systems that can substitute, or preferably eliminate, the
15 demand for conventional energy fuels.

16 (e) Any other such factors that the authority finds significant in
17 achieving the purposes and objectives of this division.

18 SEC. 350. Section 26011.6 of the Public Resources Code is
19 amended to read:

20 26011.6. (a) The authority shall establish a renewable energy
21 program to provide financial assistance to public power entities,
22 independent generators, utilities, or businesses manufacturing
23 components or systems, or both, to generate new and renewable
24 energy sources, develop clean and efficient distributed generation,
25 and demonstrate the economic feasibility of new technologies,
26 such as solar, photovoltaic, wind, and ultralow-emission equipment.
27 The authority shall give preference to utility-scale projects that
28 can be rapidly deployed to provide a significant contribution as a
29 renewable energy supply. The program established pursuant to
30 this subdivision shall include financial assistance provided pursuant
31 to subdivision (g) of Section 26011.

32 (b) The authority shall make every effort to expedite the
33 operation of renewable energy systems, and shall adopt regulations
34 for purposes of this section and Section 26011.5 as emergency
35 regulations in accordance with Chapter 3.5 (commencing with
36 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
37 Code. For purposes of Chapter 3.5, including Section 11349.6 of
38 the Government Code, the adoption of the regulations shall be
39 considered by the Office of Administrative Law to be necessary
40 for the immediate preservation of the public peace, health and

1 safety, and general welfare. Notwithstanding the 120-day limitation
2 specified in subdivision (e) of Section 11346.1 of the Government
3 Code, the regulations shall be repealed 180 days after their effective
4 date, unless the authority complies with Sections 11346.2 to
5 11347.3, inclusive, as provided in subdivision (e) of Section
6 11346.1 of the Government Code.

7 (c) The authority shall consult with the Department of Energy
8 regarding the financing of projects to avoid duplication of other
9 renewable energy projects.

10 (d) The authority shall ensure that any financed project shall
11 offer its power within California on a long-term contract basis.

12 (e) The authority shall ensure that a financed project is limited
13 to resources that the authority determines support the state's goals
14 for the reduction of emissions of greenhouse gases pursuant to the
15 California Global Warming Solutions Act of 2006 (Division 25.5
16 (commencing with Section 38500) of the Health and Safety Code).

17 SEC. 351. Section 30404 of the Public Resources Code is
18 amended to read:

19 30404. (a) The commission shall periodically, in the case of
20 the Department of Energy, the State Board of Forestry and Fire
21 Protection, the State Water Resources Control Board and the
22 California regional water quality control boards, the State Air
23 Resources Board and air pollution control districts and air quality
24 management districts, the Department of Fish and Game, the
25 Department of Parks and Recreation, the Department of Boating
26 and Waterways, the California Geological Survey and the Division
27 of Oil, Gas, and Geothermal Resources in the Department of
28 Conservation, and the State Lands Commission, and may, with
29 respect to any other state agency, submit recommendations
30 designed to encourage the state agency to carry out its functions
31 in a manner consistent with this division. The recommendations
32 may include proposed changes in administrative regulations, rules,
33 and statutes.

34 (b) Each of those state agencies shall review and consider the
35 commission recommendations and shall, within six months from
36 the date of their receipt, to the extent that the recommendations
37 have not been implemented, report to the Governor and the
38 Legislature its action and reasons therefor. The report shall also
39 include the state agency's comments on any legislation that may
40 have been proposed by the commission.

1 SEC. 352. Section 322 is added to the Public Utilities Code,
2 to read:

3 322. (a) Whenever in this chapter a reference is made to the
4 “California Energy Resources Conservation and Development
5 Commission,” the “State Energy Resources Conservation and
6 Development Commission,” or the “Energy Commission,” it means
7 the Department of Energy as successor to that entity.

8 (b) Whenever in this chapter a reference is made to the
9 Department of Water Resources acting pursuant to Division 27
10 (commencing with Section 80000) of the Water Code, it includes
11 the Department of Energy as the successor to the Department of
12 Water Resources for this purpose.

13 SEC. 353. Article 2 (commencing with Section 334) of Chapter
14 2.3 of Part 1 of Division 1 of the Public Utilities Code is repealed.

15 SEC. 354. Section 345.1 is added to the Public Utilities Code,
16 to read:

17 345.1. (a) The Independent System Operator governing board
18 shall be composed of a five-member independent governing board
19 of directors appointed by the Governor and subject to confirmation
20 by the Senate. Any reference in this chapter or in any other
21 provision of law to the Independent System Operator governing
22 board means the independent governing board appointed under
23 this subdivision.

24 (b) A member of the independent governing board appointed
25 under subdivision (a) may not be affiliated with any actual or
26 potential participant in any market administered by the Independent
27 System Operator.

28 (c) (1) All appointments shall be for three-year terms.

29 (2) There is no limit on the number of terms that may be served
30 by any member.

31 (d) The Office of Energy Market Oversight shall require the
32 articles of incorporation and bylaws of the Independent System
33 Operator to be maintained in accordance with this section, and
34 shall make filings with the Federal Energy Regulatory Commission
35 as the office determines to be necessary.

36 (e) For the purposes of the initial appointments to the
37 Independent System Operator governing board, as provided in
38 subdivision (a), the Governor shall appoint one member to a
39 one-year term, two members to a two-year term, and two members
40 to a three-year term.

1 SEC. 355. Section 345.2 is added to the Public Utilities Code,
2 to read:

3 345.2. (a) The Independent System Operator bylaws shall
4 contain provisions that identify those matters specified in
5 subdivision (b) of Section 25227.6 of the Public Resources Code
6 as matters within state jurisdiction. The bylaws shall also contain
7 provisions that state that California's bylaws approval function
8 with respect to the matters specified in subdivision (b) of Section
9 25227.6 of the Public Resources Code shall not preclude the
10 Federal Energy Regulatory Commission from taking any action
11 necessary to address undue discrimination or other violations of
12 the Federal Power Act (16 U.S.C. Sec. 791a et seq.) or to exercise
13 any other commission responsibility under the Federal Power Act.
14 In taking this action, the Federal Energy Regulatory Commission
15 shall give due respect to California's jurisdictional interests in the
16 functions of the Independent System Operator and to attempt to
17 accommodate state interests to the extent those interests are not
18 inconsistent with the Federal Energy Regulatory Commission's
19 statutory responsibilities. The bylaws shall state that any future
20 agreement regarding the apportionment of the Independent System
21 Operator board appointment function among participating states
22 associated with the expansion of the Independent System Operator
23 into a multistate entity shall be filed with the Federal Energy
24 Regulatory Commission pursuant to Section 205 of the Federal
25 Power Act (16 U.S.C. Sec. 824d).

26 (b) Any necessary bylaw changes to implement the provisions
27 of Section 345.1 or subdivision (a) of this section, or Section
28 25227.1, 25227.5, or 25227.6 of the Public Resources Code, or
29 changes required pursuant to an agreement as contemplated by
30 subdivision (a) of this section with a participating state for a
31 regional organization, shall be effective upon approval of the
32 Independent System Operator governing board and the Office of
33 Energy Market Oversight and acceptance for filing by the Federal
34 Energy Regulatory Commission.

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

36 SEC. 357. Section 348 of the Public Utilities Code is amended
37 to read:

38 348. The Independent System Operator shall adopt inspection,
39 maintenance, repair, and replacement standards for the transmission
40 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.

1 (b) Funds deposited in the Public Interest Research,
2 Development, and Demonstration Fund may be expended for
3 projects that serve the energy needs of both stationary and
4 transportation purposes if the research provides an electricity
5 ratepayer benefit.

6 (c) The Department of Energy shall report annually to the
7 appropriate budget committees of the Legislature on any
8 encumbrances or liquidations that are outstanding at the time the
9 commission's budget is submitted to the Legislature for review.

10 SEC. 363. Section 398.3 of the Public Utilities Code is
11 amended to read:

12 398.3. (a) Beginning January 1, 1998, or as soon as practicable
13 thereafter, each generator that provides meter data to a system
14 operator shall report to the system operator electricity generated
15 in kilowatthours by hour by generator, the fuel type or fuel types
16 and fuel consumption by fuel type by month on an historical
17 recorded quarterly basis. Facilities using only one fuel type may
18 satisfy this requirement by reporting fuel type only. With regard
19 to any facility using more than one fuel type, reports shall reflect
20 the fuel consumed as a percentage of electricity generation.

21 (b) The Department of Energy shall have authorization to access
22 the electricity generation data in kilowatthours by hour for each
23 facility that provides meter data to the system operator, and the
24 fuel type or fuel types.

25 (c) With regard to out-of-state generation, the Department of
26 Energy shall have authorization to access the electricity generation
27 data in kilowatthours by hour at the point at which out-of-state
28 generation is metered, to the extent the information has been
29 submitted to a system operator.

30 (d) Trade secrets as defined in subdivision (d) of Section 3426.1
31 of the Civil Code contained in the information provided to the
32 system operators pursuant to this section shall be treated as
33 confidential. These data may be disclosed only by the system
34 operators and only by authorization of the generator except that
35 the Department of Energy shall have authorization to access these
36 data, shall consider all these data to be trade secrets, and shall only
37 release these data in an aggregated form such that trade secrets
38 cannot be discerned.

39 SEC. 364. Section 398.5 of the Public Utilities Code is
40 amended to read:

1 398.5. (a) Retail suppliers that disclose specific purchases
2 pursuant to Section 398.4 shall report on June 1, 2009, and annually
3 thereafter, to the Department of Energy, for each electricity offering
4 for the previous calendar year, each of the following:

5 (1) The kilowatthours purchased, by generator and fuel type
6 during the previous calendar year, consistent with the meter data,
7 including losses, reported to the system operator.

8 (2) For each electricity offering the kilowatthours sold at retail.

9 (3) For each electricity offering the disclosures made to
10 consumers pursuant to Section 398.4.

11 (b) Information submitted to the Department of Energy pursuant
12 to this section that is a trade secret as defined in subdivision (d)
13 of Section 3426.1 of the Civil Code shall not be released except
14 in an aggregated form such that trade secrets cannot be discerned.

15 (c) On or before January 1, 1998, the Department of Energy
16 shall specify guidelines and standard formats, based on the
17 requirements of this article and subject to public hearing, for the
18 submittal of information pursuant to this article.

19 (d) In developing the rules and procedures specified in this
20 section, the Department of Energy shall seek to minimize the
21 reporting burden and cost of reporting that it imposes on retail
22 suppliers.

23 (e) The provisions of this section shall not apply to generators
24 providing electric service onsite, under an over-the-fence
25 transaction as described in Section 218, or to an affiliate or
26 affiliates, as defined in subdivision (a) of Section 372.

27 (f) The Department of Energy may verify the veracity of
28 environmental claims made by retail suppliers.

29 SEC. 365. Section 399.2.5 of the Public Utilities Code is
30 amended to read:

31 399.2.5. (a) Notwithstanding any other provision in Sections
32 1001 to 1013, inclusive, an application to the California Energy
33 Board within the Department of Energy of an electrical corporation
34 for a certificate authorizing the construction of new transmission
35 facilities shall be deemed to be necessary to the provision of
36 electric service for purposes of any determination made under
37 Section 1003 if the California Energy Board within the Department
38 of Energy finds that the new facility is necessary to facilitate
39 achievement of the renewable power goals established in Article
40 16 (commencing with Section 399.11).

1 (b) With respect to a transmission facility described in
2 subdivision (a), the commission shall take all feasible actions to
3 ensure that the transmission rates established by the Federal Energy
4 Regulatory Commission are fully reflected in any retail rates
5 established by the commission. These actions shall include, but
6 are not limited to:

7 (1) Making findings, where supported by an evidentiary record,
8 that those transmission facilities provide benefit to the transmission
9 network and are necessary to facilitate the achievement of the
10 renewables portfolio standard established in Article 16
11 (commencing with Section 399.11).

12 (2) Directing the utility to which the generator will be
13 interconnected, where the direction is not preempted by federal
14 law, to seek the recovery through general transmission rates of the
15 costs associated with the transmission facilities.

16 (3) Asserting the positions described in paragraphs (1) and (2)
17 to the Federal Energy Regulatory Commission in appropriate
18 proceedings.

19 (4) Allowing recovery in retail rates of any increase in
20 transmission costs incurred by an electrical corporation resulting
21 from the construction of the transmission facilities that are not
22 approved for recovery in transmission rates by the Federal Energy
23 Regulatory Commission after the commission determines that the
24 costs were prudently incurred in accordance with subdivision (a)
25 of Section 454.

26 SEC. 366. Section 399.8 of the Public Utilities Code is
27 amended to read:

28 399.8. (a) In order to ensure that the citizens of this state
29 continue to receive safe, reliable, affordable, and environmentally
30 sustainable electric service, it is the policy of this state and the
31 intent of the Legislature that prudent investments in energy
32 efficiency, renewable energy, and research, development, and
33 demonstration shall continue to be made.

34 (b) (1) Every customer of an electrical corporation shall pay a
35 nonbypassable system benefits charge authorized pursuant to this
36 article. The system benefits charge shall fund energy efficiency,
37 renewable energy, and research, development, and demonstration.

38 (2) Local publicly owned electric utilities shall continue to
39 collect and administer system benefits charges pursuant to Section
40 385.

(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.

1 (f) The commission and the Department of Energy shall retain
2 and continue their oversight responsibilities as set forth in Sections
3 381 and 383 of this code, and Chapter 7.1 (commencing with
4 Section 25620) and Chapter 8.6 (commencing with Section 25740)
5 of Division 15 of the Public Resources Code.

6 (g) An applicant for the Large Nonresidential Standard
7 Performance Contract Program funded pursuant to paragraph (1)
8 of subdivision (b) and an electrical corporation shall promptly
9 attempt to resolve disputes that arise related to the program's
10 guidelines and parameters prior to entering into a program
11 agreement. The applicant shall provide the electrical corporation
12 with written notice of any dispute. Within 10 business days after
13 receipt of the notice, the parties shall meet to resolve the dispute.
14 If the dispute is not resolved within 10 business days after the date
15 of the meeting, the electrical corporation shall notify the applicant
16 of his or her right to file a complaint with the commission, which
17 complaint shall describe the grounds for the complaint, injury, and
18 relief sought. The commission shall issue its findings in response
19 to a filed complaint within 30 business days of the date of receipt
20 of the complaint. Prior to issuance of its findings, the commission
21 shall provide a copy of the complaint to the electrical corporation,
22 which shall provide a response to the complaint to the commission
23 within five business days of the date of receipt. During the dispute
24 period, the amount of estimated financial incentives shall be held
25 in reserve until the dispute is resolved.

26 SEC. 367. Section 399.11 of the Public Utilities Code is
27 amended to read:

28 399.11. The Legislature finds and declares all of the following:

29 (a) In order to attain a target of generating 20 percent of total
30 retail sales of electricity in California from eligible renewable
31 energy resources by December 31, 2010, and for the purposes of
32 increasing the diversity, reliability, public health, and
33 environmental benefits of the energy mix, it is the intent of the
34 Legislature that the commission and the Department of Energy
35 implement the California Renewables Portfolio Standard Program
36 described in this article.

37 (b) Increasing California's reliance on eligible renewable energy
38 resources may promote stable electricity prices, protect public
39 health, improve environmental quality, stimulate sustainable

1 economic development, create new employment opportunities,
2 and reduce reliance on imported fuels.

3 (c) The development of eligible renewable energy resources
4 and the delivery of the electricity generated by those resources to
5 customers in California may ameliorate air quality problems
6 throughout the state and improve public health by reducing the
7 burning of fossil fuels and the associated environmental impacts
8 and by reducing in-state fossil fuel consumption.

9 (d) The California Renewables Portfolio Standard Program is
10 intended to complement the Renewable Energy Resources Program
11 administered by the Department of Energy and established pursuant
12 to Chapter 8.6 (commencing with Section 25740) of Division 15
13 of the Public Resources Code.

14 (e) New and modified electric transmission facilities may be
15 necessary to facilitate the state achieving its renewables portfolio
16 standard targets.

17 SEC. 368. Section 399.12 of the Public Utilities Code is
18 amended to read:

19 399.12. For purposes of this article, the following terms have
20 the following meanings:

21 (a) “Conduit hydroelectric facility” means a facility for the
22 generation of electricity that uses only the hydroelectric potential
23 of an existing pipe, ditch, flume, siphon, tunnel, canal, or other
24 manmade conduit that is operated to distribute water for a
25 beneficial use.

26 (b) “Delivered” and “delivery” have the same meaning as
27 provided in subdivision (a) of Section 25741 of the Public
28 Resources Code.

29 (c) “Eligible renewable energy resource” means an electric
30 generating facility that meets the definition of “in-state renewable
31 electricity generation facility” in Section 25741 of the Public
32 Resources Code, subject to the following limitations:

33 (1) (A) An existing small hydroelectric generation facility of
34 30 megawatts or less shall be eligible only if a retail seller or local
35 publicly owned electric utility owned or procured the electricity
36 from the facility as of December 31, 2005. A new hydroelectric
37 facility is not an eligible renewable energy resource if it will cause
38 an adverse impact on instream beneficial uses or cause a change
39 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

1 the efficiency improvements do not result in an adverse impact on
2 instream beneficial uses or cause a change in the volume or timing
3 of streamflow. The entire generating capacity of the facility shall
4 be eligible.

5 (b) Notwithstanding subdivision (c) of Section 399.12, the
6 incremental increase in the amount of electricity generated from
7 a hydroelectric generation facility as a result of efficiency
8 improvements at the facility, is electricity from an eligible
9 renewable energy resource, without regard to the electrical output
10 of the facility, if all of the following conditions are met:

11 (1) The incremental increase is the result of efficiency
12 improvements from a retrofit that do not result in an adverse impact
13 on instream beneficial uses or cause a change in the volume or
14 timing of streamflow.

15 (2) The hydroelectric generation facility has, within the
16 immediately preceding 15 years, received certification from the
17 State Water Resources Control Board pursuant to Section 401 of
18 the Clean Water Act (33 U.S.C. Sec. 1341), or has received
19 certification from a regional board to which the state board has
20 delegated authority to issue certification, unless the facility is
21 exempt from certification because there is no potential for discharge
22 into waters of the United States.

23 (3) The hydroelectric generation facility was operational prior
24 to January 1, 2007, the efficiency improvements are initiated on
25 or after January 1, 2008, the efficiency improvements are not the
26 result of routine maintenance activities, as determined by the
27 Department of Energy, by action of the California Energy Board,
28 and the efficiency improvements were not included in any resource
29 plan sponsored by the facility owner prior to January 1, 2008.

30 (4) All of the incremental increase in electricity resulting from
31 the efficiency improvements are demonstrated to result from a
32 long-term financial commitment by the retail seller or local publicly
33 owned electric utility. For purposes of this paragraph, "long-term
34 financial commitment" means either new ownership investment
35 in the facility by the retail seller or local publicly owned electric
36 utility or a new or renewed contract with a term of 10 or more
37 years, which includes procurement of the incremental generation.

38 (c) The incremental increase in the amount of electricity
39 generated from a hydroelectric generation facility as a result of
40 efficiency improvements at the facility are not eligible for

1 supplemental energy payments pursuant to the Renewable Energy
2 Resources Program (Chapter 8.6 (commencing with Section 25740)
3 of Division 15 of the Public Resources Code), or a successor
4 program.

5 SEC. 370. Section 399.13 of the Public Utilities Code is
6 amended to read:

7 399.13. The Department of Energy, by action of the California
8 Energy Board, shall do all of the following:

9 (a) Certify eligible renewable energy resources that it determines
10 meet the criteria described in subdivision (b) of Section 399.12.

11 (b) Design and implement an accounting system to verify
12 compliance with the renewables portfolio standard by retail sellers,
13 to ensure that electricity generated by an eligible renewable energy
14 resource is counted only once for the purpose of meeting the
15 renewables portfolio standard of this state or any other state, to
16 certify renewable energy credits produced by eligible renewable
17 energy resources, and to verify retail product claims in this state
18 or any other state. In establishing the guidelines governing this
19 accounting system, the Department of Energy shall collect data
20 from electricity market participants that it deems necessary to
21 verify compliance of retail sellers, in accordance with the
22 requirements of this article and the California Public Records Act
23 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
24 Title 1 of the Government Code). In seeking data from electrical
25 corporations, the Department of Energy shall request data from
26 the commission. The commission shall collect data from electrical
27 corporations and remit the data to the Department of Energy within
28 90 days of the request.

29 (c) Establish a system for tracking and verifying renewable
30 energy credits that, through the use of independently audited data,
31 verifies the generation and delivery of electricity associated with
32 each renewable energy credit and protects against multiple counting
33 of the same renewable energy credit. The Department of Energy
34 shall consult with other western states and with the Western
35 Electricity Coordinating Council in the development of this system.

36 (d) Certify, for purposes of compliance with the renewable
37 portfolio standard requirements by a retail seller, the eligibility of
38 renewable energy credits associated with deliveries of electricity
39 by an eligible renewable energy resource to a local publicly owned

1 electric utility, if the Department of Energy determines that the
2 following conditions have been satisfied:

3 (1) The local publicly owned electric utility that is procuring
4 the electricity is in compliance with the requirements of Section
5 387.

6 (2) The local publicly owned electric utility has established an
7 annual renewables portfolio standard target comparable to those
8 applicable to an electrical corporation, is procuring sufficient
9 eligible renewable energy resources to satisfy the targets, and will
10 not fail to satisfy the targets in the event that the renewable energy
11 credit is sold to another retail seller.

12 SEC. 371. Section 399.15 of the Public Utilities Code is
13 amended to read:

14 399.15. (a) In order to fulfill unmet long-term resource needs,
15 the commission shall establish a renewables portfolio standard
16 requiring all electrical corporations to procure a minimum quantity
17 of electricity generated by eligible renewable energy resources as
18 a specified percentage of total kilowatthours sold to their retail
19 end-use customers each calendar year, subject to limits on the total
20 amount of costs expended above the market prices determined in
21 subdivision (c), to achieve the targets established under this article.

22 (b) The commission shall implement annual procurement targets
23 for each retail seller as follows:

24 (1) Each retail seller shall, pursuant to subdivision (a), increase
25 its total procurement of eligible renewable energy resources by at
26 least an additional 1 percent of retail sales per year so that 20
27 percent of its retail sales are procured from eligible renewable
28 energy resources no later than December 31, 2010. A retail seller
29 with 20 percent of retail sales procured from eligible renewable
30 energy resources in any year shall not be required to increase its
31 procurement of renewable energy resources in the following year.

32 (2) For purposes of setting annual procurement targets, the
33 commission shall establish an initial baseline for each retail seller
34 based on the actual percentage of retail sales procured from eligible
35 renewable energy resources in 2001, and to the extent applicable,
36 adjusted going forward pursuant to Section 399.12.

37 (3) Only for purposes of establishing these targets, the
38 commission shall include all electricity sold to retail customers by
39 the Department of Water Resources pursuant to Section 80100 of

1 the Water Code in the calculation of retail sales by an electrical
2 corporation.

3 (4) In the event that a retail seller fails to procure sufficient
4 eligible renewable energy resources in a given year to meet any
5 annual target established pursuant to this subdivision, the retail
6 seller shall procure additional eligible renewable energy resources
7 in subsequent years to compensate for the shortfall, subject to the
8 limitation on costs for electrical corporations established pursuant
9 to subdivision (d).

10 (c) The commission shall establish a methodology to determine
11 the market price of electricity for terms corresponding to the length
12 of contracts with eligible renewable energy resources, in
13 consideration of the following:

14 (1) The long-term market price of electricity for fixed price
15 contracts, determined pursuant to an electrical corporation's general
16 procurement activities as authorized by the commission.

17 (2) The long-term ownership, operating, and fixed-price fuel
18 costs associated with fixed-price electricity from new generating
19 facilities.

20 (3) The value of different products including baseload, peaking,
21 and as-available electricity.

22 (d) The commission shall establish, for each electrical
23 corporation, a limitation on the total costs expended above the
24 market prices determined in subdivision (c) for the procurement
25 of eligible renewable energy resources to achieve the annual
26 procurement targets established under this article.

27 (1) The cost limitation shall be equal to the amount of funds
28 transferred to each electrical corporation by the former State Energy
29 Resources Conservation and Development Commission pursuant
30 to subdivision (b) of Section 25743 of the Public Resources Code
31 and the 51.5 percent of the funds which would have been collected
32 through January 1, 2012, from the customers of the electrical
33 corporation based on the renewable energy public goods charge
34 in effect as of January 1, 2007.

35 (2) The above-market costs of a contract selected by an electrical
36 corporation may be counted toward the cost limitation if all of the
37 following conditions are satisfied:

38 (A) The contract has been approved by the commission and was
39 selected through a competitive solicitation pursuant to the
40 requirements of subdivision (d) of Section 399.14.

1 (B) The contract covers a duration of no less than 10 years.

2 (C) The contracted project is a new or repowered facility
3 commencing commercial operations on or after January 1, 2005.

4 (D) No purchases of renewable energy credits may be eligible
5 for consideration as an above-market cost.

6 (E) The above-market costs of a contract do not include any
7 indirect expenses including imbalance energy charges, sale of
8 excess energy, decreased generation from existing resources, or
9 transmission upgrades.

10 (3) If the cost limitation for an electrical corporation is
11 insufficient to support the total costs expended above the market
12 prices determined in subdivision (c) for the procurement of eligible
13 renewable energy resources satisfying the conditions of paragraph
14 (2), the commission shall allow the electrical corporation to limit
15 its procurement to the quantity of eligible renewable energy
16 resources that can be procured at or below the market prices
17 established in subdivision (c).

18 (4) This section does not prevent an electrical corporation from
19 voluntarily proposing to procure eligible renewable energy
20 resources at above-market prices that are not counted toward the
21 cost limitation. Any voluntary procurement involving above-market
22 costs shall be subject to commission approval prior to the expense
23 being recovered in rates.

24 (e) The establishment of a renewables portfolio standard shall
25 not constitute implementation by the commission of the federal
26 Public Utility Regulatory Policies Act of 1978 (Public Law
27 95-617).

28 (f) The commission shall consult with the Department of Energy
29 in calculating market prices under subdivision (c) and establishing
30 other renewables portfolio standard policies.

31 SEC. 372. Section 399.16 of the Public Utilities Code is
32 amended to read:

33 399.16. (a) The commission, by rule, may authorize the use
34 of renewable energy credits to satisfy the requirements of the
35 renewables portfolio standard established pursuant to this article,
36 subject to the following conditions:

37 (1) Prior to authorizing any renewable energy credit to be used
38 toward satisfying annual procurement targets, the commission and
39 the Department of Energy, by action of the California Energy
40 Board, shall conclude that the tracking system established pursuant

1 to subdivision (c) of Section 399.13, is operational, is capable of
2 independently verifying the electricity generated by an eligible
3 renewable energy resource and delivered to the retail seller, and
4 can ensure that renewable energy credits shall not be double
5 counted by any seller of electricity within the service territory of
6 the Western Electricity Coordinating Council (WECC).

7 (2) A renewable energy credit shall be counted only once for
8 compliance with the renewables portfolio standard of this state or
9 any other state, or for verifying retail product claims in this state
10 or any other state.

11 (3) The electricity is delivered to a retail seller, the Independent
12 System Operator, or a local publicly owned electric utility.

13 (4) All revenues received by an electrical corporation for the
14 sale of a renewable energy credit shall be credited to the benefit
15 of ratepayers.

16 (5) Renewable energy credits shall not be created for electricity
17 generated pursuant to any electricity purchase contract with a retail
18 seller or a local publicly owned electric utility executed before
19 January 1, 2005, unless the contract contains explicit terms and
20 conditions specifying the ownership or disposition of those credits.
21 Deliveries under those contracts shall be tracked through the
22 accounting system described in subdivision (b) of Section 399.13
23 and included in the baseline quantity of eligible renewable energy
24 resources of the purchasing retail seller pursuant to Section 399.15.

25 (6) Renewable energy credits shall not be created for electricity
26 generated under any electricity purchase contract executed after
27 January 1, 2005, pursuant to the federal Public Utility Regulatory
28 Policies Act of 1978 (16 U.S.C. Sec. 2601 et seq.). Deliveries
29 under the electricity purchase contracts shall be tracked through
30 the accounting system described in subdivision (b) of Section
31 399.12 and count toward the renewables portfolio standard
32 obligations of the purchasing retail seller.

33 (7) The commission may limit the quantity of renewable energy
34 credits that may be procured unbundled from electricity generation
35 by any retail seller, to meet the requirements of this article.

36 (8) An electrical corporation shall not be obligated to procure
37 renewable energy credits to satisfy the requirements of this article
38 in the event that the total costs expended above the applicable
39 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

1 commission, to fulfill the requirement to prepare a renewable
2 energy procurement plan pursuant to this article, provided the plan
3 meets the requirements of Sections 399.11, 399.12, 399.13, and
4 399.14, as modified by this section.

5 (e) Procurement and administrative costs associated with
6 long-term contracts entered into by an electrical corporation with
7 60,000 or fewer customer accounts in California that serves retail
8 end-use customers outside California, for eligible renewable energy
9 resources pursuant to this article, at or below the market price
10 determined by the commission pursuant to subdivision (c) of
11 Section 399.15, shall be deemed reasonable per se, and shall be
12 recoverable in rates of the electrical corporation's California
13 customers, provided the costs are not recoverable in rates in other
14 states served by the electrical corporation.

15 SEC. 374. Section 411 is added to the Public Utilities Code,
16 to read:

17 411. All fees collected by the commission from electrical
18 corporations and gas corporations to support those functions of
19 the commission in reviewing and issuing certificates of public
20 convenience and necessity that are transferred to the California
21 Energy Board within the Department of Energy pursuant to
22 subdivision (b) of Section 1001, shall be identified and transferred
23 to the Secretary of Energy, at least quarterly, upon the assumption
24 by the department of those functions.

25 SEC. 375. Section 454.5 of the Public Utilities Code is
26 amended to read:

27 454.5. (a) The commission shall specify the allocation of
28 electricity, including quantity, characteristics, and duration of
29 electricity delivery, that the Department of Water Resources shall
30 provide under its power purchase agreements to the customers of
31 each electrical corporation, which shall be reflected in the electrical
32 corporation's proposed procurement plan. Each electrical
33 corporation shall file a proposed procurement plan with the
34 commission not later than 60 days after the commission specifies
35 the allocation of electricity. The proposed procurement plan shall
36 specify the date that the electrical corporation intends to resume
37 procurement of electricity for its retail customers, consistent with
38 its obligation to serve. After the commission's adoption of a
39 procurement plan, the commission shall allow not less than 60

1 days before the electrical corporation resumes procurement
2 pursuant to this section.

3 (b) An electrical corporation's proposed procurement plan shall
4 include, but not be limited to, all of the following:

5 (1) An assessment of the price risk associated with the electrical
6 corporation's portfolio, including any utility-retained generation,
7 existing power purchase and exchange contracts, and proposed
8 contracts or purchases under which an electrical corporation will
9 procure electricity, electricity demand reductions, and
10 electricity-related products and the remaining open position to be
11 served by spot market transactions.

12 (2) A definition of each electricity product, electricity-related
13 product, and procurement related financial product, including
14 support and justification for the product type and amount to be
15 procured under the plan.

16 (3) The duration of the plan.

17 (4) The duration, timing, and range of quantities of each product
18 to be procured.

19 (5) A competitive procurement process under which the
20 electrical corporation may request bids for procurement-related
21 services, including the format and criteria of that procurement
22 process.

23 (6) An incentive mechanism, if any incentive mechanism is
24 proposed, including the type of transactions to be covered by that
25 mechanism, their respective procurement benchmarks, and other
26 parameters needed to determine the sharing of risks and benefits.

27 (7) The upfront standards and criteria by which the acceptability
28 and eligibility for rate recovery of a proposed procurement
29 transaction will be known by the electrical corporation prior to
30 execution of the transaction. This shall include an expedited
31 approval process for the commission's review of proposed contracts
32 and subsequent approval or rejection thereof. The electrical
33 corporation shall propose alternative procurement choices in the
34 event a contract is rejected.

35 (8) Procedures for updating the procurement plan.

36 (9) A showing that the procurement plan will achieve the
37 following:

38 (A) The electrical corporation will, in order to fulfill its unmet
39 resource needs and in furtherance of Section 701.3, until a 20
40 percent renewable resources portfolio is achieved, procure

1 renewable energy resources with the goal of ensuring that at least
2 an additional 1 percent per year of the electricity sold by the
3 electrical corporation is generated from renewable energy
4 resources, provided sufficient funds are made available pursuant
5 to Sections 399.6 and 399.15, to cover the above-market costs for
6 new renewable energy resources.

7 (B) The electrical corporation will create or maintain a
8 diversified procurement portfolio consisting of both short-term
9 and long-term electricity and electricity-related and demand
10 reduction products.

11 (C) The electrical corporation will first meet its unmet resource
12 needs through all available energy efficiency and demand reduction
13 resources that are cost effective, reliable, and feasible.

14 (10) The electrical corporation's risk management policy,
15 strategy, and practices, including specific measures of price
16 stability.

17 (11) A plan to achieve appropriate increases in diversity of
18 ownership and diversity of fuel supply of nonutility electrical
19 generation.

20 (12) A mechanism for recovery of reasonable administrative
21 costs related to procurement in the generation component of rates.

22 (c) The commission shall review and accept, modify, or reject
23 each electrical corporation's procurement plan. The commission's
24 review shall consider each electrical corporation's individual
25 procurement situation, and shall give strong consideration to that
26 situation in determining which one or more of the features set forth
27 in this subdivision shall apply to that electrical corporation. A
28 procurement plan approved by the commission shall contain one
29 or more of the following features, provided that the commission
30 may not approve a feature or mechanism for an electrical
31 corporation if it finds that the feature or mechanism would impair
32 the restoration of an electrical corporation's creditworthiness or
33 would lead to a deterioration of an electrical corporation's
34 creditworthiness:

35 (1) A competitive procurement process under which the
36 electrical corporation may request bids for procurement-related
37 services. The commission shall specify the format of that
38 procurement process, as well as criteria to ensure that the auction
39 process is open and adequately subscribed. Any purchases made

1 in compliance with the commission-authorized process shall be
2 recovered in the generation component of rates.

3 (2) An incentive mechanism that establishes a procurement
4 benchmark or benchmarks and authorizes the electrical corporation
5 to procure from the market, subject to comparing the electrical
6 corporation's performance to the commission-authorized
7 benchmark or benchmarks. The incentive mechanism shall be
8 clear, achievable, and contain quantifiable objectives and standards.
9 The incentive mechanism shall contain balanced risk and reward
10 incentives that limit the risk and reward of an electrical corporation.

11 (3) Upfront achievable standards and criteria by which the
12 acceptability and eligibility for rate recovery of a proposed
13 procurement transaction will be known by the electrical corporation
14 prior to the execution of the bilateral contract for the transaction.
15 The commission shall provide for expedited review and either
16 approve or reject the individual contracts submitted by the electrical
17 corporation to ensure compliance with its procurement plan. To
18 the extent the commission rejects a proposed contract pursuant to
19 this criteria, the commission shall designate alternative procurement
20 choices obtained in the procurement plan that will be recoverable
21 for ratemaking purposes.

22 (d) A procurement plan approved by the commission shall
23 accomplish each of the following objectives:

24 (1) Enable the electrical corporation to fulfill its obligation to
25 serve its customers at just and reasonable rates.

26 (2) Eliminate the need for after-the-fact reasonableness reviews
27 of an electrical corporation's actions in compliance with an
28 approved procurement plan, including resulting electricity
29 procurement contracts, practices, and related expenses. However,
30 the commission may establish a regulatory process to verify and
31 ensure that each contract was administered in accordance with the
32 terms of the contract, and contract disputes which may arise are
33 reasonably resolved.

34 (3) Ensure timely recovery of prospective procurement costs
35 incurred pursuant to an approved procurement plan. The
36 commission shall establish rates based on forecasts of procurement
37 costs adopted by the commission, actual procurement costs
38 incurred, or combination thereof, as determined by the commission.
39 The commission shall establish power procurement balancing
40 accounts to track the differences between recorded revenues and

1 costs incurred pursuant to an approved procurement plan. The
2 commission shall review the power procurement balancing
3 accounts, not less than semiannually, and shall adjust rates or order
4 refunds, as necessary, to promptly amortize a balancing account,
5 according to a schedule determined by the commission. Until
6 January 1, 2006, the commission shall ensure that any
7 overcollection or undercollection in the power procurement
8 balancing account does not exceed 5 percent of the electrical
9 corporation's actual recorded generation revenues for the prior
10 calendar year excluding revenues collected for the Department of
11 Water Resources. The commission shall determine the schedule
12 for amortizing the overcollection or undercollection in the
13 balancing account to ensure that the 5 percent threshold is not
14 exceeded. After January 1, 2006, this adjustment shall occur when
15 deemed appropriate by the commission consistent with the
16 objectives of this section.

17 (4) Moderate the price risk associated with serving its retail
18 customers, including the price risk embedded in its long-term
19 supply contracts, by authorizing an electrical corporation to enter
20 into financial and other electricity-related product contracts.

21 (5) Provide for just and reasonable rates, with an appropriate
22 balancing of price stability and price level in the electrical
23 corporation's procurement plan.

24 (e) The commission shall provide for the periodic review and
25 prospective modification of an electrical corporation's procurement
26 plan.

27 (f) The commission may engage an independent consultant or
28 advisory service to evaluate risk management and strategy. The
29 reasonable costs of any consultant or advisory service is a
30 reimbursable expense and eligible for funding pursuant to Section
31 631.

32 (g) The commission shall adopt appropriate procedures to ensure
33 the confidentiality of any market sensitive information submitted
34 in an electrical corporation's proposed procurement plan or
35 resulting from or related to its approved procurement plan,
36 including, but not limited to, proposed or executed power purchase
37 agreements, data request responses, or consultant reports, or any
38 combination, provided that the Office of Ratepayer Advocates and
39 other consumer groups that are nonmarket participants shall be

1 provided access to this information under confidentiality
2 procedures authorized by the commission.

3 (h) This section does not alter, modify, or amend the
4 commission's oversight of affiliate transactions under its rules and
5 decisions or the commission's existing authority to investigate and
6 penalize an electrical corporation's alleged fraudulent activities,
7 or to disallow costs incurred as a result of gross incompetence,
8 fraud, abuse, or similar grounds. This section does not expand,
9 modify, or limit the Department of Energy's existing authority and
10 responsibilities as set forth in Sections 25216, 25216.5, and 25323
11 of the Public Resources Code.

12 (i) An electrical corporation that serves less than 500,000 electric
13 retail customers within the state may file with the commission a
14 request for exemption from this section, which the commission
15 shall grant upon a showing of good cause.

16 (j) (1) Prior to its approval pursuant to Section 851 of any
17 divestiture of generation assets owned by an electrical corporation
18 on or after September 24, 2002, the commission shall determine
19 the impact of the proposed divestiture on the electrical
20 corporation's procurement rates and shall approve a divestiture
21 only to the extent it finds, taking into account the effect of the
22 divestiture on procurement rates, that the divestiture is in the public
23 interest and will result in net ratepayer benefits.

24 (2) Any electrical corporation's procurement necessitated as a
25 result of the divestiture of generation assets on or after September
26 24, 2002, shall be subject to the mechanisms and procedures set
27 forth in this section only if its actual cost is less than the recent
28 historical cost of the divested generation assets.

29 (3) Notwithstanding paragraph (2), the commission may deem
30 proposed procurement eligible to use the procedures in this section
31 upon its approval of asset divestiture pursuant to Section 851.

32 SEC. 376. Section 464 of the Public Utilities Code is amended
33 to read:

34 464. (a) Reasonable expenditures by transmission owners that
35 are electrical corporations to plan, design, and engineer
36 reconfiguration, replacement, or expansion of transmission facilities
37 are in the public interest and are deemed prudent if made for the
38 purpose of facilitating competition in electric generation markets,
39 ensuring open access and comparable service, or maintaining or

1 enhancing reliability, whether or not these expenditures are for
2 transmission facilities that become operational.

3 (b) The commission and the Office of Energy Market Oversight
4 in the Department of Energy shall jointly facilitate the efforts of
5 the state's transmission owning electrical corporations to obtain
6 authorization from the Federal Energy Regulatory Commission to
7 recover reasonable expenditures made for the purposes stated in
8 subdivision (a).

9 (c) This section does not alter or affect the recovery of the
10 reasonable costs of other electric facilities in rates pursuant to the
11 commission's existing ratemaking authority under this code or
12 pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs.
13 791a, et seq.). The commission may periodically review and adjust
14 depreciation schedules and rates authorized for an electric plant
15 that is under the jurisdiction of the commission and owned by an
16 electrical corporation and periodically review and adjust
17 depreciation schedules and rates authorized for a gas plant that is
18 under the jurisdiction of the commission and owned by a gas
19 corporation, consistent with this code.

20 SEC. 377. Section 848.1 of the Public Utilities Code is
21 amended to read:

22 848.1. (a) No later than 120 days after the effective date of
23 this article, and from time to time thereafter, the recovery
24 corporation shall apply to the commission for a determination that
25 some or all of the recovery corporation's recovery costs may be
26 recovered through fixed recovery amounts, which would be
27 recovery property under this article, and that any portion of the
28 recovery corporation's federal and State of California income and
29 franchise taxes associated with those fixed recovery amounts and
30 not financed from proceeds of recovery bonds be recovered through
31 fixed recovery tax amounts. The recovery corporation may request
32 this determination by the commission in a separate proceeding or
33 in an existing proceeding, or both. The recovery corporation shall
34 in its application specify that consumers within its service territory
35 would benefit from reduced rates on a present value basis through
36 the issuance of recovery bonds. The commission shall designate
37 fixed recovery amounts and any associated fixed recovery tax
38 amounts as recoverable in one or more financing orders if the
39 commission determines, as part of its findings in connection with
40 the financing order, that the designation of the fixed recovery

1 amounts and any associated fixed recovery tax amounts, and the
2 issuance of recovery bonds in connection with fixed recovery
3 amounts, would reduce the rates on a present value basis that
4 consumers within the recovery corporation's service territory would
5 pay if the financing order were not adopted. Fixed recovery
6 amounts and any associated fixed recovery tax amounts shall only
7 be imposed on existing and future consumers in the service
8 territory. Consumers within the service territory shall continue to
9 pay fixed recovery amounts and any associated fixed tax recovery
10 amounts until the recovery bonds are paid in full by the financing
11 entity. Once the recovery bonds have been paid in full, the payment
12 by consumers of fixed recovery amounts and fixed recovery tax
13 amounts shall terminate.

14 (b) The commission shall establish an effective mechanism that
15 ensures recovery of recovery costs through fixed recovery amounts
16 and any associated fixed recovery tax amounts from existing and
17 future consumers in the service territory, provided that the costs
18 shall not be recoverable from any of the following:

19 (1) New load or incremental load of an existing consumer of
20 the recovery corporation where the load is being met through a
21 direct transaction and the transaction does not require the use of
22 transmission or distribution facilities owned by the recovery
23 corporation.

24 (2) Customer generation departing load that is exempt from
25 Department of Water Resources power charges pursuant to the
26 commission's Decision No. 03-04-030, as modified by Decision
27 No. 03-04-041, and as clarified and affirmed by Decision No.
28 03-05-039, except that the load shall pay the costs as a component
29 of and in proportion to any purchase of electricity delivered by the
30 recovery corporation under standby or other service made following
31 its departure.

32 (3) The Department of Water Resources, with respect to the
33 pumping, generation, and transmission facilities and operations of
34 the State Water Resources Development System, except to the
35 extent that system facilities receive electric service from the
36 recovery corporation on or after December 19, 2003, under a
37 commission-approved tariff.

38 (4) Retail electric load, continuously served by a local publicly
39 owned electric utility from January 1, 2000, through the effective
40 date of the act adding this section.

1 (5) Load that subsequently take electric service from a city
2 where all the following conditions are met:

3 (A) The new load is from locations that never received electric
4 service from the recovery corporation.

5 (B) The city owns and operates the local publicly owned electric
6 utility.

7 (C) The local publicly owned electric utility served more than
8 95 percent of the customers receiving electric service residing
9 within the city limits prior to December 19, 2003.

10 (D) The city annexed the territory in which the load is located
11 on or after December 19, 2003.

12 (E) Following annexation, the city provides all municipal
13 services to the annexed territory that the city provides to other
14 territory within the city limits, including electric service.

15 (F) The total load exempt from paying fixed recovery amounts
16 and associated fixed recovery tax amounts pursuant to
17 subparagraphs (A) through (D), inclusive, does not exceed 50
18 megawatts, as determined by the commission, and any load above
19 the 50 megawatt exemption amount shall be responsible for paying
20 recovery amounts and associated fixed recovery tax amounts,
21 except as provided in subdivision (c).

22 (c) Except as provided in paragraphs (4) and (5) of subdivision
23 (b), the commission shall determine the extent to which fixed
24 recovery amounts and any associated fixed recovery tax amounts
25 are recoverable from new municipal load, consistent with the
26 commission's determination in the limited rehearing granted in
27 Decision 03-08-076. The determination of the commission shall
28 be made on the earlier of the date it adopts a financing order or
29 December 31, 2004.

30 (d) Except as provided in paragraphs (4) and (5) of subdivision
31 (b) and in subdivision (c), the obligation to pay fixed recovery
32 amounts and any associated fixed recovery tax amounts cannot be
33 avoided by the formation of a local publicly owned electric utility
34 on or after December 19, 2003, or by annexation of any portion
35 of the service territory of the recovery corporation by an existing
36 local publicly owned electric utility.

37 (e) Recovery bonds authorized by the commission's financing
38 orders may be issued in one or more series on or before December
39 31, 2006.

1 (f) The commission may issue financing orders in accordance
2 with this article to facilitate the recovery, financing, or refinancing
3 of recovery costs. A financing order may be adopted only upon
4 the application of the recovery corporation and shall become
5 effective in accordance with its terms only after the recovery
6 corporation files with the commission the recovery corporation's
7 written consent to all terms and conditions of the financing order.
8 A financing order may specify how amounts collected from a
9 consumer shall be allocated between fixed recovery amounts, any
10 associated fixed recovery tax amounts, and other charges.

11 (g) Notwithstanding Section 455.5 or 1708, or any other
12 provision of law, except as otherwise provided in Section 848.7
13 or in this subdivision with respect to recovery property that has
14 been made the basis for the issuance of recovery bonds and with
15 respect to any associated fixed recovery tax amounts, the financing
16 order, the fixed recovery amounts and any associated fixed
17 recovery tax amounts shall be irrevocable, and the commission
18 shall not have authority either by rescinding, altering, or amending
19 the financing order or otherwise, to revalue or revise for ratemaking
20 purposes, the recovery costs or the costs of recovering, financing,
21 or refinancing the recovery costs, determine that the fixed recovery
22 amounts, any associated fixed recovery tax amounts or rates are
23 unjust or unreasonable, or in any way reduce or impair the value
24 of recovery property or of the right to receive any associated fixed
25 recovery tax amounts either directly or indirectly by taking fixed
26 recovery amounts or any associated fixed recovery tax amounts
27 into account when setting other rates for the recovery corporation
28 or when setting charges for the Department of Water Resources;
29 nor shall the amount of revenues arising with respect thereto be
30 subject to reduction, impairment, postponement, or termination.
31 Except as otherwise provided in this subdivision, the State of
32 California does hereby pledge and agree with the recovery
33 corporation, owners of recovery property, and holders of recovery
34 bonds that the state shall neither limit nor alter the fixed recovery
35 amounts, any associated fixed recovery tax amounts, recovery
36 property, financing orders, or any rights thereunder until the
37 recovery bonds, together with the interest thereon, are fully paid
38 and discharged, and any associated fixed recovery tax amounts
39 have been satisfied or, in the alternative, have been refinanced
40 through an additional issue of recovery bonds; provided nothing

1 contained in this section shall preclude the limitation or alteration
2 if and when adequate provision shall be made by law for the
3 protection of the recovery corporation, owners, and holders. The
4 financing entity is authorized to include this pledge and undertaking
5 for the state in these recovery bonds. Notwithstanding any other
6 provision of this section, the commission shall approve adjustments
7 to the fixed recovery amounts and any associated fixed recovery
8 tax amounts as may be necessary to ensure timely recovery of all
9 recovery costs that are the subject of the pertinent financing order,
10 and the costs of capital associated with the recovery, financing, or
11 refinancing thereof, including servicing and retiring the recovery
12 bonds contemplated by the financing order. When setting other
13 rates for the recovery corporation, this subdivision does not prevent
14 the commission from taking into account either of the following:
15 (1) Any collection of fixed recovery amounts in excess of
16 amounts actually required to pay recovery costs financed or
17 refinanced by recovery bonds.
18 (2) Any collection of fixed recovery tax amounts in excess of
19 amounts actually required to pay federal and State of California
20 income and franchise taxes associated with fixed recovery amounts;
21 provided that this would not result in a recharacterization of the
22 tax, accounting, and other intended characteristics of the financing,
23 including, but not limited to, either of the following:
24 (A) Treating the recovery bonds as debt of the recovery
25 corporation or its affiliates for federal income tax purposes.
26 (B) Treating the transfer of the recovery property by the recovery
27 corporation as a true sale for bankruptcy purposes.
28 (h) (1) Financing orders issued under this article do not
29 constitute a debt or liability of the state or of any political
30 subdivision thereof, and do not constitute a pledge of the full faith
31 and credit of the state or any of its political subdivisions, but are
32 payable solely from the funds provided therefor under this article
33 and shall be consistent with Sections 1 and 18 of Article XVI of
34 the California Constitution. This subdivision shall in no way
35 preclude bond guarantees or enhancements pursuant to this article.
36 All recovery bonds shall contain on the face thereof a statement
37 to the following effect: "Neither the full faith and credit nor the
38 taxing power of the State of California is pledged to the payment
39 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,

1 the commission and parties to the hearing or proceedings to the
2 extent necessary for cross-examination or rebuttal, subject to
3 applicable rules of evidence, except that verification is not required
4 for any electricity demand model or forecast prepared by the
5 Department of Energy pursuant to Section 25309 or 25402.1 of
6 the Public Resources Code and approved and adopted after a
7 hearing during which testimony was offered subject to
8 cross-examination. The commission shall afford each of these
9 electricity demand models or forecasts the evidentiary weight it
10 determines appropriate. This subdivision does not require the
11 department to approve or adopt any electricity demand model or
12 forecast.

13 (b) Testimony presented in a hearing or proceeding before the
14 commission that is based in whole, or in part, on a computer model
15 shall include a listing of all the equations and assumptions built
16 into the model.

17 (c) A database that is used for any testimony or exhibit in a
18 hearing or proceeding before the commission shall be reasonably
19 accessible to the commission staff and parties to the hearing or
20 proceeding to the extent necessary for cross-examination or
21 rebuttal, subject to applicable rules of evidence, as applied in
22 commission proceedings.

23 (d) The commission shall adopt rules and procedures to meet
24 the requirements specified in subdivisions (a), (b), and (c). These
25 rules shall include procedural safeguards that protect databases
26 and models not owned by the public utility.

27 (e) The commission shall establish appropriate procedures for
28 determining the appropriate level of compensation for a party's
29 access.

30 (f) Each party shall have access to the computer programs and
31 models of each other party to the extent provided by Section 1822.
32 The commission shall not require a utility to provide a remote
33 terminal or other direct physical link to the computer systems of
34 a utility to a third party.

35 (g) The commission shall verify, validate, and review the
36 computer models of any electric corporation that are used for the
37 purpose of planning, operating, constructing, or maintaining the
38 corporation's electricity transmission system, and that are the basis
39 for testimony and exhibits in hearings and proceedings before the
40 commission.

1 (h) The transmission computer models shall be available to, and
2 subject to verification by, each party to a commission proceeding
3 in accordance with subdivision (a) of Section 1822, and regulations
4 adopted pursuant to subdivision (d) of Section 1822.

5 SEC. 379. Section 2774.6 of the Public Utilities Code is
6 amended to read:

7 2774.6. The commission, in consultation with the Department
8 of Energy, shall develop a program for residential and commercial
9 customer air-conditioning load control, as an element of each
10 electrical corporation's tariffed service offerings paid for with
11 electric rates. The goal of the program shall be to contribute to the
12 adequacy of electricity supply and to help customers reduce their
13 electric bills in a cost-effective manner. The program may include
14 peak load reduction programs for residential and commercial
15 air-conditioning systems, if the commission determines that the
16 inclusion would be cost-effective.

17 SEC. 380. Section 2827 of the Public Utilities Code, as
18 amended by Chapter 6 of the Statutes of 2010, is amended to read:

19 2827. (a) The Legislature finds and declares that a program
20 to provide net energy metering combined with net surplus
21 compensation, co-energy metering, and wind energy co-metering
22 for eligible customer-generators is one way to encourage substantial
23 private investment in renewable energy resources, stimulate in-state
24 economic growth, reduce demand for electricity during peak
25 consumption periods, help stabilize California's energy supply
26 infrastructure, enhance the continued diversification of California's
27 energy resource mix, reduce interconnection and administrative
28 costs for electricity suppliers, and encourage conservation and
29 efficiency.

30 (b) As used in this section, the following terms have the
31 following meanings:

32 (1) "Co-energy metering" means a program that is the same in
33 all other respects as a net energy metering program, except that
34 the local publicly owned electric utility has elected to apply a
35 generation-to-generation energy and time-of-use credit formula
36 as provided in subdivision (i).

37 (2) "Electrical cooperative" means an electrical cooperative as
38 defined in Section 2776.

39 (3) "Electric utility" means an electrical corporation, a local
40 publicly owned electric utility, or an electrical cooperative, or any

1 other entity, except an electric service provider, that offers electrical
2 service. This section shall not apply to a local publicly owned
3 electric utility that serves more than 750,000 customers and that
4 also conveys water to its customers.

5 (4) “Eligible customer-generator” means a residential customer,
6 small commercial customer as defined in subdivision (h) of Section
7 331, or commercial, industrial, or agricultural customer of an
8 electric utility, who uses a solar or a wind turbine electrical
9 generating facility, or a hybrid system of both, with a capacity of
10 not more than one megawatt that is located on the customer’s
11 owned, leased, or rented premises, and is interconnected and
12 operates in parallel with the electric grid, and is intended primarily
13 to offset part or all of the customer’s own electrical requirements.

14 (5) “Net energy metering” means measuring the difference
15 between the electricity supplied through the electric grid and the
16 electricity generated by an eligible customer-generator and fed
17 back to the electric grid over a 12-month period as described in
18 subdivisions (c) and (h).

19 (6) “Net surplus customer-generator” means an eligible
20 customer-generator that generates more electricity during a
21 12-month period than is supplied by the electric utility to the
22 eligible customer-generator during the same 12-month period.

23 (7) “Net surplus electricity” means all electricity generated by
24 an eligible customer-generator measured in kilowatthours over a
25 12-month period that exceeds the amount of electricity consumed
26 by that eligible customer-generator.

27 (8) “Net surplus electricity compensation” means a per
28 kilowatthour rate offered by the electric utility to the net surplus
29 customer-generator for net surplus electricity that is set by the
30 ratemaking authority pursuant to subdivision (h).

31 (9) “Ratemaking authority” means, for an electrical corporation
32 or electrical cooperative, the commission, and for a local publicly
33 owned electric utility, the local elected body responsible for setting
34 the rates of the local publicly owned utility.

35 (10) “Wind energy co-metering” means any wind energy project
36 greater than 50 kilowatts, but not exceeding one megawatt, where
37 the difference between the electricity supplied through the electric
38 grid and the electricity generated by an eligible customer-generator
39 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

1 a new net energy metering contract shall provide an inspection
2 report to the electrical corporation, unless the electrical generating
3 facility and meter have been installed or inspected within the
4 previous three years. The inspection report shall be prepared by a
5 California licensed contractor who is not the owner or operator of
6 the facility and meter. A California licensed electrician shall
7 perform the inspection of the electrical portion of the facility and
8 meter.

9 (3) (A) On an annual basis, beginning in 2003, every electric
10 utility shall make available to the ratemaking authority information
11 on the total rated generating capacity used by eligible
12 customer-generators that are customers of that provider in the
13 provider's service area and the net surplus electricity purchased
14 by the electric utility pursuant to this section.

15 (B) An electric service provider operating pursuant to Section
16 394 shall make available to the ratemaking authority the
17 information required by this paragraph for each eligible
18 customer-generator that is their customer for each service area of
19 an electric corporation, local publicly owned electric utility, or
20 electrical cooperative, in which the eligible customer-generator
21 has net energy metering.

22 (C) The ratemaking authority shall develop a process for making
23 the information required by this paragraph available to electric
24 utilities, and for using that information to determine when, pursuant
25 to paragraphs (1) and (4), an electric utility is not obligated to
26 provide net energy metering to additional eligible
27 customer-generators in its service area.

28 (4) An electric utility is not obligated to provide net energy
29 metering to additional eligible customer-generators in its service
30 area when the combined total peak demand of all electricity used
31 by eligible customer-generators served by all the electric utilities
32 in that service area furnishing net energy metering to eligible
33 customer-generators exceeds 5 percent of the aggregate customer
34 peak demand of those electric utilities.

35 (5) By January 1, 2010, the commission, in consultation with
36 the Department of Energy, shall submit a report to the Governor
37 and the Legislature on the costs and benefits of net energy
38 metering, wind energy co-metering, and co-energy metering to
39 participating customers and nonparticipating customers and with
40 options to replace the economic costs and benefits of net energy

1 metering, wind energy co-metering, and co-energy metering with
2 a mechanism that more equitably balances the interests of
3 participating and nonparticipating customers, and that incorporates
4 the findings of the report on economic and environmental costs
5 and benefits of net metering required by subdivision (n).

6 (d) Every electric utility shall make all necessary forms and
7 contracts for net energy metering and net surplus electricity
8 compensation service available for download from the Internet.

9 (e) (1) Every electric utility shall ensure that requests for
10 establishment of net energy metering and net surplus electricity
11 compensation are processed in a time period not exceeding that
12 for similarly situated customers requesting new electric service,
13 but not to exceed 30 working days from the date it receives a
14 completed application form for net energy metering service or net
15 surplus electricity compensation, including a signed interconnection
16 agreement from an eligible customer-generator and the electric
17 inspection clearance from the governmental authority having
18 jurisdiction.

19 (2) Every electric utility shall ensure that requests for an
20 interconnection agreement from an eligible customer-generator
21 are processed in a time period not to exceed 30 working days from
22 the date it receives a completed application form from the eligible
23 customer-generator for an interconnection agreement.

24 (3) If an electric utility is unable to process a request within the
25 allowable timeframe pursuant to paragraph (1) or (2), it shall notify
26 the eligible customer-generator and the ratemaking authority of
27 the reason for its inability to process the request and the expected
28 completion date.

29 (f) (1) If a customer participates in direct transactions pursuant
30 to paragraph (1) of subdivision (b) of Section 365 with an electric
31 service provider that does not provide distribution service for the
32 direct transactions, the electric utility that provides distribution
33 service for the eligible customer-generator is not obligated to
34 provide net energy metering or net surplus electricity compensation
35 to the customer.

36 (2) If a customer participates in direct transactions pursuant to
37 paragraph (1) of subdivision (b) of Section 365 with an electric
38 service provider, and the customer is an eligible
39 customer-generator, the electric utility that provides distribution
40 service for the direct transactions may recover from the customer's

1 electric service provider the incremental costs of metering and
2 billing service related to net energy metering and net surplus
3 electricity compensation in an amount set by the ratemaking
4 authority.

5 (g) Except for the time-variant kilowatthour pricing portion of
6 any tariff adopted by the commission pursuant to paragraph (4) of
7 subdivision (a) of Section 2851, each net energy metering contract
8 or tariff shall be identical, with respect to rate structure, all retail
9 rate components, and any monthly charges, to the contract or tariff
10 to which the same customer would be assigned if the customer did
11 not use an eligible solar or wind electrical generating facility,
12 except that eligible customer-generators shall not be assessed
13 standby charges on the electrical generating capacity or the
14 kilowatthour production of an eligible solar or wind electrical
15 generating facility. The charges for all retail rate components for
16 eligible customer-generators shall be based exclusively on the
17 customer-generator's net kilowatthour consumption over a
18 12-month period, without regard to the eligible
19 customer-generator's choice as to from whom it purchases
20 electricity that is not self-generated. Any new or additional demand
21 charge, standby charge, customer charge, minimum monthly
22 charge, interconnection charge, or any other charge that would
23 increase an eligible customer-generator's costs beyond those of
24 other customers who are not eligible customer-generators in the
25 rate class to which the eligible customer-generator would otherwise
26 be assigned if the customer did not own, lease, rent, or otherwise
27 operate an eligible solar or wind electrical generating facility is
28 contrary to the intent of this section, and shall not form a part of
29 net energy metering contracts or tariffs.

30 (h) For eligible customer-generators, the net energy metering
31 calculation shall be made by measuring the difference between
32 the electricity supplied to the eligible customer-generator and the
33 electricity generated by the eligible customer-generator and fed
34 back to the electric grid over a 12-month period. The following
35 rules shall apply to the annualized net metering calculation:

36 (1) The eligible residential or small commercial
37 customer-generator shall, at the end of each 12-month period
38 following the date of final interconnection of the eligible
39 customer-generator's system with an electric utility, and at each
40 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

1 to measure the flow of electricity in two directions, paragraph (1)
2 of subdivision (c) shall apply.

3 (C) For all eligible residential and small commercial
4 customer-generators and for each billing period, the net balance
5 of moneys owed to the electric utility for net consumption of
6 electricity or credits owed to the eligible customer-generator for
7 net generation of electricity shall be carried forward as a monetary
8 value until the end of each 12-month period. For all eligible
9 commercial, industrial, and agricultural customer-generators, the
10 net balance of moneys owed shall be paid in accordance with the
11 electric utility's normal billing cycle, except that if the eligible
12 commercial, industrial, or agricultural customer-generator is a net
13 electricity producer over a normal billing cycle, any excess
14 kilowatthours generated during the billing cycle shall be carried
15 over to the following billing period as a monetary value, calculated
16 according to the procedures set forth in this section, and appear as
17 a credit on the eligible commercial, industrial, or agricultural
18 customer-generator's account, until the end of the annual period
19 when paragraph (3) shall apply.

20 (3) At the end of each 12-month period, where the electricity
21 generated by the eligible customer-generator during the 12-month
22 period exceeds the electricity supplied by the electric utility during
23 that same period, the eligible customer-generator is a net surplus
24 customer-generator and the electric utility shall, upon an
25 affirmative election by the eligible customer-generator, either (A)
26 provide net surplus electricity compensation for any net surplus
27 electricity generated during the prior 12-month period, or (B) allow
28 the eligible customer-generator to apply the net surplus electricity
29 as a credit for kilowatthours subsequently supplied by the electric
30 utility to the surplus customer-generator. For an eligible
31 customer-generator that does not affirmatively elect to receive
32 service pursuant to net surplus electricity compensation, the electric
33 utility shall retain any excess kilowatthours generated during the
34 prior 12-month period. The eligible customer-generator not
35 affirmatively electing to receive service pursuant to net surplus
36 electricity compensation shall not be owed any compensation for
37 the net surplus electricity unless the electric utility enters into a
38 purchase agreement with the eligible customer-generator for those
39 excess kilowatthours. Every electric utility shall, by January 31,
40 2010, provide notice to eligible customer-generators that they are

1 eligible to receive net surplus electricity compensation for net
2 surplus electricity, that they must elect to receive net surplus
3 electricity compensation, and that the 12-month period commences
4 when the electric utility receives the eligible customer-generator's
5 election. The commission may, for an electric utility that is an
6 electrical corporation or electrical cooperative, adopt requirements
7 for providing notice and the manner by which eligible
8 customer-generators may elect to receive net surplus electricity
9 compensation.

10 (4) (A) The ratemaking authority shall, by January 1, 2011,
11 establish a net surplus electricity compensation valuation to
12 compensate the net surplus customer-generator for the value of
13 net surplus electricity generated by the net surplus
14 customer-generator. The commission shall establish the valuation
15 in a ratemaking proceeding. The ratemaking authority for a local
16 publicly owned electric utility shall establish the valuation in a
17 public proceeding. The net surplus electricity compensation
18 valuation shall be established so as to provide the net surplus
19 customer-generator just and reasonable compensation for the value
20 of net surplus electricity, while leaving other ratepayers unaffected.
21 The ratemaking authority shall determine whether the
22 compensation will include, where appropriate justification exists,
23 either or both of the following components:

- 24 (i) The value of the electricity itself.
 - 25 (ii) The value of the renewable attributes of the electricity.
- 26 (B) In establishing the rate pursuant to subparagraph (A), the
27 ratemaking authority shall ensure that the rate does not result in a
28 shifting of costs between solar customer-generators and other
29 bundled service customers.

30 (5) (A) Upon adoption of the net surplus electricity
31 compensation rate by the ratemaking authority, any renewable
32 energy credit, as defined in Section 399.12, for net surplus
33 electricity purchased by the electric utility shall belong to the
34 electric utility. Any renewable energy credit associated with
35 electricity generated by the eligible customer-generator that is
36 utilized by the eligible customer-generator shall remain the property
37 of the eligible customer-generator.

38 (B) Upon adoption of the net surplus electricity compensation
39 rate by the ratemaking authority, the net surplus electricity
40 purchased by the electric utility shall count toward the electric

1 utility's renewables portfolio standard annual procurement targets
2 for the purposes of paragraph (1) of subdivision (b) of Section
3 399.15, or for a local publicly owned electric utility, the renewables
4 portfolio standard annual procurement targets established pursuant
5 to Section 387.

6 (6) The electric utility shall provide every eligible residential
7 or small commercial customer-generator with net electricity
8 consumption and net surplus electricity generation information
9 with each regular bill. That information shall include the current
10 monetary balance owed the electric utility for net electricity
11 consumed, or the net surplus electricity generated, since the last
12 12-month period ended. Notwithstanding this subdivision, an
13 electric utility shall permit that customer to pay monthly for net
14 energy consumed.

15 (7) If an eligible residential or small commercial
16 customer-generator terminates the customer relationship with the
17 electric utility, the electric utility shall reconcile the eligible
18 customer-generator's consumption and production of electricity
19 during any part of a 12-month period following the last
20 reconciliation, according to the requirements set forth in this
21 subdivision, except that those requirements shall apply only to the
22 months since the most recent 12-month bill.

23 (8) If an electric service provider or electric utility providing
24 net energy metering to a residential or small commercial
25 customer-generator ceases providing that electric service to that
26 customer during any 12-month period, and the customer-generator
27 enters into a new net energy metering contract or tariff with a new
28 electric service provider or electric utility, the 12-month period,
29 with respect to that new electric service provider or electric utility,
30 shall commence on the date on which the new electric service
31 provider or electric utility first supplies electric service to the
32 customer-generator.

33 (i) Notwithstanding any other provisions of this section, the
34 following provisions shall apply to an eligible customer-generator
35 with a capacity of more than 10 kilowatts, but not exceeding one
36 megawatt, that receives electric service from a local publicly owned
37 electric utility that has elected to utilize a co-energy metering
38 program unless the local publicly owned electric utility chooses
39 to provide service for eligible customer-generators with a capacity

1 of more than 10 kilowatts in accordance with subdivisions (g) and
2 (h):

3 (1) The eligible customer-generator shall be required to utilize
4 a meter, or multiple meters, capable of separately measuring
5 electricity flow in both directions. All meters shall provide
6 time-of-use measurements of electricity flow, and the customer
7 shall take service on a time-of-use rate schedule. If the existing
8 meter of the eligible customer-generator is not a time-of-use meter
9 or is not capable of measuring total flow of energy in both
10 directions, the eligible customer-generator shall be responsible for
11 all expenses involved in purchasing and installing a meter that is
12 both time-of-use and able to measure total electricity flow in both
13 directions. This subdivision shall not restrict the ability of an
14 eligible customer-generator to utilize any economic incentives
15 provided by a governmental agency or an electric utility to reduce
16 its costs for purchasing and installing a time-of-use meter.

17 (2) The consumption of electricity from the local publicly owned
18 electric utility shall result in a cost to the eligible
19 customer-generator to be priced in accordance with the standard
20 rate charged to the eligible customer-generator in accordance with
21 the rate structure to which the customer would be assigned if the
22 customer did not use an eligible solar or wind electrical generating
23 facility. The generation of electricity provided to the local publicly
24 owned electric utility shall result in a credit to the eligible
25 customer-generator and shall be priced in accordance with the
26 generation component, established under the applicable structure
27 to which the customer would be assigned if the customer did not
28 use an eligible solar or wind electrical generating facility.

29 (3) All costs and credits shall be shown on the eligible
30 customer-generator's bill for each billing period. In any months
31 in which the eligible customer-generator has been a net consumer
32 of electricity calculated on the basis of value determined pursuant
33 to paragraph (2), the customer-generator shall owe to the local
34 publicly owned electric utility the balance of electricity costs and
35 credits during that billing period. In any billing period in which
36 the eligible customer-generator has been a net producer of
37 electricity calculated on the basis of value determined pursuant to
38 paragraph (2), the local publicly owned electric utility shall owe
39 to the eligible customer-generator the balance of electricity costs
40 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

1 costs attributable to the customer. The commission shall
2 incorporate the determination into an existing proceeding before
3 the commission, and shall ensure that the charges are
4 nonbypassable. Until the commission has made a determination
5 regarding the nonbypassable charges, net energy metering,
6 co-energy metering, and wind energy co-metering shall continue
7 under the same rules, procedures, terms, and conditions as were
8 applicable on December 31, 2002.

9 (m) In implementing the requirements of subdivisions (k) and
10 (l), an eligible customer-generator shall not be required to replace
11 its existing meter except as set forth in paragraph (1) of subdivision
12 (c), nor shall the electric utility require additional measurement of
13 usage beyond that which is necessary for customers in the same
14 rate class as the eligible customer-generator.

15 (n) It is the intent of the Legislature that the Treasurer
16 incorporate net energy metering, including net surplus electricity
17 compensation, co-energy metering, and wind energy co-metering
18 projects undertaken pursuant to this section as sustainable building
19 methods or distributive energy technologies for purposes of
20 evaluating low-income housing projects.

21 SEC. 381. Division 1.5 (commencing with Section 3300) of
22 the Public Utilities Code is repealed.

23 SEC. 382. Section 9502 of the Public Utilities Code is amended
24 to read:

25 9502. On or before December 1, 1994, and on a biennial basis
26 thereafter, each publicly owned electric and gas utility shall submit
27 a report to the Department of Energy describing the status of their
28 low-income weatherization programs required by Sections 9500
29 and 9501. Thereafter, as part of the biennial conservation report
30 prepared pursuant to Section 25401.1 of the Public Resources
31 Code, the commission shall report to the Legislature summarizing
32 publicly owned utility efforts to comply with Sections 9500 and
33 9501.

34 SEC. 383. The provisions of this act are severable. If any
35 provision of this act or its application is held invalid, that invalidity
36 shall not affect other provisions or applications that can be given
37 effect without the invalid provision or application.