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CHAPTER 8
PASSED THE SENATE **APRIL 5, 2001**
PASSED THE ASSEMBLY **APRIL 5, 2001**
AMENDED IN SENATE **APRIL 5, 2001**
AMENDED IN SENATE **APRIL 4, 2001**
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AMENDED IN ASSEMBLY MARCH 22, 2001
AMENDED IN ASSEMBLY MARCH 5, 2001
AMENDED IN ASSEMBLY FEBRUARY 20, 2001

INTRODUCED BY Assembly Members Kehoe, Cedillo, Correa, Frommer, Goldberg, Jackson, Keeley, Lowenthal, Nation, Oropeza, Pescetti, Reyes, Shelley, Simitian, Steinberg, and Strom-Martin
(Principal coauthor: Assembly Member Pavley)
(Coauthors: Assembly Members Liu and Negrete McLeod)

FEBRUARY 5, 2001

An act to add and repeal Article 2 (commencing with Section 81610) and Article 2.5 (commencing with Section 81620) to Chapter 3 of Part 49 of the Education Code, to add Article 6 (commencing with Section 14710) to Chapter 2 of Part 5.5 and Article 4 (commencing with Section 15350) to Chapter 1 of Part 6.7 of Division 3 of Title 2 of, the Government Code, to amend Sections 26003 and 26011.5 of, to add Section 26011.6 to, to add Chapter 5.3 (commencing with Section 25425) to Division 15 of, and to add and repeal Chapter 4 (commencing with Section 14420) of Division 12 of, the **Public Resources Code**, to amend Section 739 of, to amend, repeal, and add Section 2827 of, to add Sections 739.10, 2827.5, and 2827.7 to, and to add and repeal Section 739.11 of, the **Public Utilities Code**, relating to energy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

(Approved by Governor **April 11, 2001**. Filed with Secretary of State **April 12, 2001**.)

I have signed Assembly Bill AB 29X with the following line item vetoes and reductions to more closely align the bill with my expenditure plan and to prioritize conservation measures for this summer.

I am eliminating the following:

\$25,150,000 million re-appropriation from the Proposition 98 Reversion Account to the Chancellor of the California Community Colleges for energy efficient projects and a statewide utility usage database. These funds are already budgeted for other purposes and are required by law to be used by community colleges for educational purposes.

\$20 million to the Department of Community Services and Development to supplement the Low-Income Housing Energy Assistance Program (LIHEAP). \$120 million has been provided for this program in SB 5X.

\$50 million to the California Energy Commission (CEC) for loans and grants for construction and retrofit projects and \$50 million to the CEC for the Small Business Energy Efficiency Refrigeration Loan Program. These new programs require the establishment of administrative procedures and will not deliver peak reduction savings for this summer.

\$24 million to the Department of Corrections to install systems to retrofit generating units. These funds would not increase electricity supply or reduce demand.

\$15 million to the **Public Utilities** Commission to fund a study of real-time meters. This bill appropriates funds for the purchase and installation of these meters.

In addition, I am reducing the following allocations:

From the funds allocated to the California Conservation Corps, reduce the allocation from \$40 million to \$20 million for the Mobile Efficiency Brigade. In order to achieve the most effective energy savings by this summer, I am directing the Conservation Corps to use these funds to purchase materials and mobilize crews to deliver high efficiency lighting to low-income residences.

While I am signing this bill, it is my understanding that the Legislature will enact subsequent legislation to remove the mandate created by the Statewide Energy Management Program. I am also requesting subsequent legislation to continuously appropriate the Renewable Energy Loan Guarantee Program. It is standard for loan guarantee programs to be continuously appropriated and not contingent upon the annual budget. As drafted, this bill removes the incentive for banks to participate in this worthy program.

GRAY DAVIS, Governor

LEGISLATIVE COUNSEL'S DIGEST

AB 29, Kehoe. Energy.

(1) Existing law establishes the State Energy Resources Conservation and Development Commission in the Resources Agency, and grants it authority with respect to various energy efficiency measures and programs. Existing law generally permits **public** agencies to develop energy conservation, cogeneration, and alternative energy supply sources at their facilities in order to promote all feasible means of energy and water conservation. Existing law also generally requires **public** agencies to meet specified requirements regarding service, consulting, architectural, and engineering contracts, and requires those contracts to be approved by the Department of General Services.

This bill would enact, until January 1, 2002, the Summer **2001** Energy Efficiency Projects by Community College Districts program, which would fund the implementation of energy conservation, efficiency, cogeneration, and alternate energy supply sources by community college districts on **public** property. The bill would require a community college district to request proposals prior to awarding or entering into a contract, agreement, or lease, and would require the district to award each contract based on the consideration of specified qualifications. The bill would exempt energy projects from specified requirements imposed on contracts entered into by **public** agencies. The bill would authorize the exemption of any energy project proposed by a community college district from existing advertising and competitive bidding requirements if the director deems the exemption necessary, as specified.

The bill would require each community college district that receives funds from the program to provide a report to the Chancellor of the California Community Colleges, on or before January 1, 2002, and would require the chancellor to report that information to the Chairperson of the Joint Legislative Budget Committee, the chairpersons of the appropriate policy and fiscal committees of each house of the Legislature, and the Governor by March 1, 2002.

By imposing additional duties on community college districts, this bill would impose a state-mandated local program.

This bill would establish the Statewide Energy Management Program to assist community college districts to achieve energy independence through the development of energy management plans, the construction of sustainable green buildings, the use of renewable or other

distributed energy systems, and the expansion of statewide energy education programs and services, as prescribed. The bill would require the Board of Governors of the California Community Colleges, in consultation with the commission, to develop guidelines for this program.

The bill would require the chancellor to establish an advisory committee to provide recommendations regarding overall program development, resource development and deployment, and strategies for implementation and coordination of the program.

(2) Existing law establishes the Technology, Trade and Commerce Agency with specified powers and duties relating to economic development and science and technology. Existing law requires the energy commission to establish a small business energy assistance low-interest revolving loan program to fund the purchase of equipment for alternative technology energy projects for California's small businesses.

This bill would require the agency to administer the California Renewable Energy Loan Guarantee Program to guarantee loans made by financial institutions to eligible businesses for the permitting, manufacturing, acquisition, construction, or installation of renewable energy systems that are intended to decrease demand on the electricity grid.

(3) Existing law establishes the California Conservation Corps to conserve and develop natural resources, and enhance and maintain environmentally important lands and waters through the use of California's young women and men and to assist these youths in becoming productive adults. Existing law establishes the Department of Community Services and Development to provide a range of services and activities having a measurable and potentially major impact on causes of poverty, and to assist low-income individuals and families, migrants, and the elderly poor to obtain employment, education, income, housing, food, and emergency services.

This bill would create the Mobile Energy Efficiency Brigade, to be implemented by the corps and the department, to expand current weatherization, energy-efficiency, and rehabilitation programs in accordance with prescribed objectives. These provisions would remain in effect until January 1, 2003.

(4) Existing law requires the energy commission to administer a program of grants and loans with respect to energy efficiency measures and programs.

This bill would require the energy commission to administer a grant and loan program for eligible construction or retrofit projects, as defined, and the Small Business Energy Efficient Refrigeration Loan Program established by the bill.

(5) The existing Energy Conservation Assistance Act of 1979, until January 1, 2011, permits a school, hospital, **public** care institution, or unit of local government to submit an application to the energy commission for a loan of funds for the purpose of financing all or a portion of the costs incurred in implementing a project, as defined, including an energy conservation project.

This bill would establish the Energy Conservation Act of **2001** to establish energy efficiency incentives in the form of grants and loans to low-income residents, small businesses, and residential property owners.

(6) Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and prescribes the duties of the authority with respect to, among other things, promoting prompt and efficient development of energy sources that are renewable or that more efficiently utilize and conserve scarce energy resources.

This bill would require the authority to establish a renewable energy program to provide financial assistance to **public** power entities, independent generators, **utilities**, or businesses manufacturing renewable energy generation components or systems, or both, to generate new and renewable energy sources, as defined,

develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies. The bill would require the authority to ensure that any financed project offer its power within California on a long-term contract basis.

(7) Under existing law, the **Public Utilities** Commission requires every electrical and gas corporation to file a schedule of rates and charges providing baseline rates. In establishing these rates, existing law requires the commission to avoid excessive rate increases for residential customers, and to establish an appropriate gradual differential between the rates for the respective blocks of usage. Additionally, in establishing residential electric and gas rates, including baseline rates, existing law requires the commission to assure that the rates are sufficient to enable the electrical corporation or gas corporation to recover a just and reasonable amount of revenue from residential customers as a class, while observing the principle that electricity and gas services are necessities, for which a low affordable rate is desirable.

This bill would require the commission, at least until December 31, 2003, to require that all charges for residential electric customers are volumetric, and to prohibit any electrical corporation from imposing any charges on residential consumption that are independent of consumption unless the charges are in place prior to the effective date of the bill.

The bill would also require the commission, until December 31, 2002, to ensure that errors in estimates of demand elasticity of sales do not result in material over or undercollections of the electrical corporations.

Because existing law makes any **public** utility that violates specified provisions regulating **public utilities** guilty of a misdemeanor, this bill would impose a state-mandated local program by creating a new crime.

(8) Existing law exempts an electrical corporation that provides distribution service for direct transactions from the obligation to provide net energy metering to a customer, if the customer participates in direct transactions with an electric supplier that does not offer net energy metering, and authorizes an electrical corporation that provides distribution service for direct transactions to recover from the electric service provider of a customer that participates in direct transactions the incremental costs of metering and billing service related to net energy metering, in an amount set by the **Public Utilities** Commission. Existing law also establishes formulas for the calculation of net monthly consumption for eligible customer-generators taking service employing baseline, over baseline, and time use of rates. Existing law, for purposes of those provisions, defines the term "electric service provider" to include specified entities and defines "eligible customer-generator," to mean a residential customer, or a small commercial customer of an electric service provider.

This bill would revise the definition of an electric service provider, until January 1, 2003, to also include any other entity that provides electrical service. The bill would revise the definition of an eligible customer-generator, until January 1, 2003, to also include commercial, industrial, or agricultural customers of an electric service provider. The bill would eliminate, until January 1, 2003, certain requirements with respect to the information electric service providers are required to provide to the ratemaking authority relating to total rated generating capacity used by eligible customer-generators.

(9) Existing law requires every electric service provider, upon request, to make available to eligible customer-generators contracts for net energy metering subject to specified limitations on the number of contracts.

This bill would eliminate the specified limitations on the number of contracts.

(10) Existing law specifies that if a customer participates in

direct transactions with an electric supplier that does not offer net energy metering, the electrical corporation that provides distribution service for the direct transactions is not obligated to provide net energy metering to the customer.

This bill would, instead, specify that if a customer participates in direct transactions with an electric supplier that does not provide distribution service for the direct transactions, the electrical corporation that provides distribution service for an eligible customer-generator is not obligated to provide net energy metering to the customer.

(11) Under existing law, the Emerging Renewable Resources Account is created in the Renewable Resource Trust Fund and specified portions of revenues collected by electrical corporations for the benefit of in-state operation and development of existing and new and emerging renewable resource technologies are required to be transmitted to the energy commission for deposit in the Renewable Resource Trust Fund. The money in the fund and the account is continuously appropriated to the energy commission for specified purposes, including a multiyear, consumer-based program to foster the generation of emerging renewable technologies in distributed generation applications. Existing law requires this program to provide monetary rebates, buydowns, or equivalent incentives to purchasers, lessees, lessors, or sellers of eligible electricity generating systems and limits the incentives to a maximum percentage of the system price, as defined by the energy commission.

This bill would require the commission to expand existing programs to promote clean distribution generation technologies.

The bill would authorize the commission to increase the maximum rebate levels for certain distributed emerging technologies that have a peak capacity greater than 10 kilowatts, if the commission makes a specified determination.

(12) Existing law authorizes the State **Public** Works Board to develop energy and water conservation and cogeneration and alternative energy and water supply sources at state facilities. Existing law requires the buildings acquired or constructed by the board to be operated and maintained by the board until they are placed under the jurisdiction of the Department of General Services or another state agency.

This bill would require the department to identify, from the department's state property inventory, all buildings where it is feasible to reduce energy consumption and achieve energy efficiencies, as well as to produce onsite electrical generation or reduce the level of peak-period electrical consumption for that building using alternative energy equipment thermal energy storage or cogeneration equipment.

This bill would authorize the Director of General Services to enter into 3rd party agreements to implement energy efficiencies and feasible onsite electrical generation. The bill would authorize the director to enter into negotiated agreements to accomplish specified objectives relating to energy.

This bill would require the department to retrofit specified **public** buildings where feasible, provided that work on **public** buildings of the California State University is performed at the request or with the consent of the university.

This bill would require the department to prepare and submit to the Legislature and the Governor, a report of the energy savings, if any, in terms of megawatts per year, for each **public** building retrofitted on or before 2 years after the effective date of this bill, and every 2 years thereafter.

(13) This bill would limit administrative costs under the bill for participating agencies to 2 1/2%, and would require prescribed reports to be filed with the Legislature and the Governor.

(14) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

(15) The bill would appropriate or reappropriate \$408,650,000 from specified funds to the Controller to be allocated in accordance with a specified schedule to accomplish the purposes of this bill.

(16) The bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 2 (commencing with Section 81610) is added to Chapter 3 of Part 49 of the Education Code, to read:

Article 2. Summer **2001** Energy Efficiency Projects By Community College Districts

81610. It is the intent of the Legislature to permit community college districts to implement energy conservation, efficiency, cogeneration, and alternate energy supply sources on **public** property in accordance with this chapter in the most expedient manner possible. It is also the intent of the Legislature that the California Community College system take all steps necessary to ensure that the energy efficiency projects contemplated by this chapter are in place by the summer of **2001**.

81611. For the purposes of this article, "energy project" means equipment, load management techniques, or other measures or services that reduce energy consumption and provide for more efficient use of energy in buildings or facilities owned or operated by community college districts, and that can be completed and energy savings realized by the summer of **2001** in order to minimize the need for future state resources to pay for increased energy costs.

81612. (a) Notwithstanding any other provision of law, prior to awarding, or entering into, any contract, agreement, or lease pursuant to this article, a community college district shall request proposals from qualified persons. After evaluating those proposals, the community college district shall award contracts to responsible persons or entities who submit responses to a request for proposal which are responsive to the requirements of the request for proposals. A community college may award a contract for an energy project under this article to any responsible person or entity timely submitting a responsive answer to the request for proposals based on qualifications, including the consideration of all of the following factors:

(1) Experience of the contractor, architect, engineer, or other consultant, as applicable.

(2) Type of technology to be employed by the contractor on the energy project.

(3) Cost to the district.

(4) Any other considerations deemed relevant by the district.

(b) Notwithstanding any other provision of law, community college districts may award contracts pursuant to a request for proposals issued under this article or award contracts to persons or entities selected from the pool of qualified energy service companies established pursuant to Section 388 of the **Public Utilities** Code,

when it is determined they are qualified to perform the work on a particular project. A request for proposal does not have to be prepared if a community college district elects to award a contract for an energy project to only those persons or entities included in the pool of qualified energy service companies under Section 388 of the **Public Utilities** Code. If a community college district elects to seek proposals for an energy project pursuant to a request for proposals and from the pool of qualified energy service companies under Section 388 of the **Public Utilities** Code, the community college district shall prepare a request for proposals. Award of such a contract shall be based upon the factors described in subdivision (a).

81613. (a) Notwithstanding the repeal of this section by Section 81615, on or before January 1, 2002, each community college district receiving funds appropriated pursuant to this section shall provide a report to the Chancellor of the California Community Colleges with the following information:

(1) The amount of funding expended.

(2) The measures, programs, or activities funded.

(3) A description of the effectiveness of the measures, programs, or activities funded in reducing peak electricity demand and improving energy efficiency, as measured in kilowatthours of electricity or British thermal unit hours reduced per dollar expended.

(b) Notwithstanding the repeal of this section by Section 81615, on or before March 1, 2002, the Chancellor of the California Community Colleges shall provide a summary of the reports provided pursuant to subdivision (a) to the Chairperson of the Joint Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor.

81614. Any contracts entered into pursuant to this chapter by a community college district are exempt from the following requirements:

(a) Architectural, engineering, construction management, and consulting contracts are exempt from Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(b) All contracts are exempt from Article 3.5 (commencing with Section 81660).

(c) All contracts are exempt from the publication requirements set forth in Section 81641.

(d) All contracts are exempt from Article 41 (commencing with Section 20650) of Chapter 1 of Part 3 of Division 2 of the **Public** Contract Code, except that if in the request for proposals for an energy project under this article, a community college district has established a requirement for bid security, a response to the request for proposal will be deemed responsive only if the response is submitted with the required bid security.

(e) If the value of a project awarded by a community college district to a contractor to implement an energy project under this article is in excess of twenty-five thousand dollars (\$25,000), regardless of whether the requirement is noted in the request for proposals, the contractor awarded such a contract shall obtain and submit to such a community college district for approval of a Labor and Materials Payment Bond conforming to the requirements of Section 3248 of the Civil Code.

(f) If required by the terms of a request for proposals issued by a community college district under this article, the person or entity awarded such a contract shall obtain a performance bond conforming with the applicable requirements of the request for proposals.

81615. This article shall remain in effect only until January 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2002, deletes or extends that date.

SEC. 2. Article 2.5 (commencing with Section 81620) is added to

Chapter 3 of Part 49 of the Education Code, to read:

Article 2.5. Statewide Energy Management Program

81620. This article shall be known, and may be cited, as the Statewide Energy Management Program.

81621. The definitions set forth in this section govern the construction of this article:

(a) "Commission" means the State Energy Resources Conservation and Development Commission.

(b) "Energy independence" means the utilization of existing and developing technologies to meet energy needs onsite, including, but not necessarily limited to, the utilization of solar, fuel cells, and other renewable and clean onsite energy sources, the optimization of the use of daylighting, the use of passive solar orientation, and the use of construction techniques that minimize energy loss, such as appropriate insulation and lighting fixtures.

(c) "Energy management plans" means the plans that community colleges develop with guidance from the Statewide Energy Management Program to implement energy efficiency projects such as sustainable green buildings, renovations, and wind or solar farms that will move the community colleges toward energy independence.

(d) "Program" means the Statewide Energy Management Program, established under this article, which is a state program modeled after the Federal Energy Management Program.

(e) "Renewable or other distributed energy systems" means alternative efficient sources of energy such as daylighting, photovoltaic panels (rooftops or solar farms), passive solar heating, fuel cells, and steam. Diesel-fueled electric generating systems are not included in this definition.

(f) "Sustainable green building" means a building that has been designed to reduce both direct and indirect environmental consequences associated with construction, occupancy, operation, maintenance, and eventual decommissioning, and whose design is evaluated for cost, quality of life, future flexibility, ease of maintenance, energy and resource efficiency, and overall environmental impact, with an emphasis on life-cycle cost analysis.

81622. (a) (1) In Executive Order D-16-00, issued August 2, 2000, Governor Davis directed state agencies to design and construct buildings that incorporate energy efficiency, resource conservation, and renewable technologies. In his State of the State Address delivered on January 8, 2001, Governor Davis expressed his support for the goal of moving the California Community Colleges toward energy independence.

(2) The Federal Energy Management Program, upon which the State Energy Management Program is modeled, has resulted in approximately four dollars (\$4) in savings for every one dollar (\$1) spent. The federal investment of two billion dollars (\$2,000,000,000) in energy efficiency has resulted in savings of six billion three hundred million dollars (\$6,300,000,000) on energy bills.

(b) In consultation with the commission, the Board of Governors of the California Community Colleges shall further develop and refine certain guidelines for a Statewide Energy Management Program that have been established under an ongoing joint effort of the commission and DeAnza College. This statewide effort shall allow community college districts to achieve energy independence through the development of energy management plans, the construction of sustainable green buildings, the use of renewable or other distributed energy systems, and the expansion of statewide energy education programs and services.

(c) By 2010, the program shall, at a minimum, facilitate the completion of 20 district energy management plans, 15 renewable or other distributed energy systems, and three sustainable green buildings on community college campuses statewide.

(d) In consultation with the commission, the board of governors

shall accomplish all of the following:

(1) Review and comment on academic, occupational, and vocational education materials developed by the commission, the Electric Power Research Institute, **public utilities**, and the community colleges to improve energy education programs and services.

(2) Review and recommend actions regarding successful energy education programs and services that can be identified for replication, personnel exchanges, or implementation of successful practices.

(3) Review and recommend actions regarding program resources for use by the community colleges or state agencies in improving energy education programs and services.

(4) Review exemplary programs and facilities, and recommend activities for adoption, replication, or policy advice.

(5) Review, comment, and recommend actions regarding services that will effect energy conservation.

(6) Review and comment on funding requests received to improve or enhance energy education.

(7) Review and comment on occupational and vocational training programs and services to meet current employment standards in energy occupations.

81623. The board of governors shall encourage the construction of community college sustainable green buildings that implement energy efficiency, sustainable building concepts, and solar electric, fuel cell, and other technologies. On the effective date of this article, the board of governors shall immediately seek a prototype sustainable green community college instructional building that can be a model for all new construction and retrofit projects statewide.

81624. The Chancellor of the California Community Colleges shall establish an advisory committee for the Statewide Energy Management Program, and determine the membership of that committee. The advisory committee, with technical assistance from the commission, shall make recommendations to the chancellor regarding overall program development, resource development and deployment, and strategies for implementation and coordination of the program. A leadership role on this committee shall initially be provided by the staff of the commission and DeAnza College who have been involved since 1992 in a joint effort to promote training, energy efficiency, and energy independence in the California Community Colleges. This leadership role shall rotate to other community colleges as they complete their own district energy management plans.

SEC. 2.5. Article 6 (commencing with Section 14710) is added to Chapter 2 of Part 5.5 of Division 3 of Title 2 of the Government Code, to read:

Article 6. State Building Energy Retrofits

14710. As used in this article, the following terms have the following meanings:

(a) "Alternative energy equipment" means alternative energy equipment, as defined in subdivision (d) of Section 15814.11, and, in the case of fossil fuel generation, complies with emission standards and guidance adopted by the State Air Resources Board pursuant to Sections 41514.9 and 41514.10 of the Health and Safety Code. Prior to the adoption of those standards and guidance, for the purposes of this article, distributed energy resources shall meet emission levels equivalent to nine ppm oxides of nitrogen, averaged over a three-hour period, or best available control technology for the applicable air district, whichever is lower.

(b) "Cogeneration equipment" means equipment used for cogeneration, as defined in Section 218.5 of the **Public Utilities** Code.

(c) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account

life-cycle costing analyses, and environmental, social, and technological factors, however, renewable technologies shall not be exempt based solely on cost considerations.

(d) "**Public** building" means a **public** building, as defined in Section 15802.

(e) "State agency" means any state agency, board, department or commission, including, but not limited to, the entities specified in subdivision (a) of Section 15814.12.

14711.5. (a) The department in consultation with the State Energy Resources Conservation and Development Commission, with the concurrence of the Department of Finance, shall identify each **public** building in the department's state property inventory where it is feasible for that building to reduce energy consumption and achieve energy efficiencies, as well as to produce its own onsite electrical generation or reduce its level of peak demand electricity consumption using alternative energy equipment, thermal energy storage technologies, or cogeneration equipment.

(b) The department may consider a variety of factors, including, but not limited to, the size of the **public** building, its location, the ease of conversion to onsite electrical generation, peak demand reduction efficiency, cost effectiveness, and the amount of megawatts generated or shifted to off-peak periods.

14712. The director may enter into third party agreements that the director, with the concurrence of the Department of Finance, determines are appropriate and cost-effective to implement energy efficiencies and feasible onsite electric generation pursuant to Section 14711.5 and to achieve the goals of this section. The director may enter into negotiated agreements with parties on the terms and conditions that the director, with the concurrence of the Department of Finance, deems are in the state's interests to accomplish all of the following objectives:

(a) Reduce overall energy consumption in state facilities by 30 percent.

(b) Achieve energy self-sufficiency at state facilities using clean, modern technologies that produce zero air emissions or that meet or exceed state air quality standards.

(c) Maximize the use of renewable energy technologies for both onsite electrical generation as well as thermal energy production.

(d) Utilize private third party financing, where feasible, for the construction, operation, and maintenance of such energy investments.

(e) Achieve these objectives at delivered energy costs equal to or less than the cost of obtaining the energy through the electric grid or other conventional means, as determined by the director.

14713. (a) Notwithstanding subdivision (b) of Section 15814.12, the department shall retrofit all **public** buildings, identified in Section 14711.5, where feasible, provided that work on **public** buildings of the California State University shall be performed only at the request or with the consent of the university.

(b) If a **public** building generates more electricity than it uses, it may make the energy available for the state electrical distribution grid.

14714. On or before two years after the effective date of the act adding this section, and every two years thereafter, the Department of General Services shall prepare and submit to the Legislature and the Governor, a report of the energy savings, if any, in terms of megawatts per year, for each **public** building retrofitted pursuant to this article.

SEC. 3. Article 4 (commencing with Section 15350) is added to Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code, to read:

Article 4. Renewable Energy Loan Guarantee Program

15350. The Legislature finds and declares all of the following:

(a) California is experiencing severe electrical shortages, which endanger the health, safety, and economic development opportunity of its citizens.

(b) Immediate measures are needed to increase the electrical generation capacity within California, including energy from economical renewable systems.

(c) California has been a leader in the development of renewable energy systems, from solar to wind to the most advanced fuel cell technology.

(d) California must take all reasonable actions necessary to encourage the continuing construction of renewable energy infrastructure and to maximize reliable, renewable energy systems for homes and businesses.

(e) In order to maximize the commercial lending available to renewable energy projects, it is necessary and appropriate to establish a loan guarantee program to assist in obtaining commercial loans to purchase and install renewable energy system projects.

15351. For the purposes of this article, the following definitions apply:

(a) "Eligible business" means an individual, corporation, political body, partnership, joint venture, association, joint stock company, trust, or unincorporated organization.

(b) "Financial institution" means a financial institution organized, chartered, or holding a license or authorization certificate under a law of this state or the United States to make loans or extend credit, and subject to supervision by an official or agency of this state or the United States.

(c) "Guarantee" means a written agreement between the agency and a financial institution, by which the agency agrees to pay a specified percentage of loan interest and principal for any combination of the following: permitting, acquisition, construction, or installation of one or more renewable energy systems located in the state if the eligible business defaults on the loan and the financial institution complies with the terms of the guarantee.

(d) "Loan" means a contract providing financing for a renewable energy system.

(e) "Renewable energy system" means any device or combination of devices, including distributed generation and cogeneration that meets all of the following requirements:

(1) Conserves or produces one or more of the following:

(A) Heat.

(B) Process heat.

(C) Space heating.

(D) Water heating.

(E) Steam.

(F) Space cooling.

(G) Refrigeration.

(H) Mechanical energy.

(I) Electricity.

(J) Energy in any form convertible to any of the uses specified in subparagraphs (A) to (I), inclusive.

(2) Does not expend or use conventional energy fuels, any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquified natural gas, or nuclear fissionable materials, except as provided in subsection (b) of Section 292.204 of Title 18 of the Code of Federal Regulations.

(3) Uses one or more of the following renewable electricity generation technologies:

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

(F) Small hydropower (30 megawatts or less).

(G) Digester gas.

(H) Landfill gas.

15352. (a) The agency, in consultation with the State Energy Resources Conservation and Development Commission, shall administer the California Renewable Energy Loan Guarantee Program to guarantee loans made by financial institutions to eligible businesses for the permitting, acquisition, construction, or installation of renewable energy systems that are intended to decrease the demand on the electricity grid.

(b) Notwithstanding any other provision of this article, the California Renewable Energy Loan Guarantee Program shall not be used to guarantee a loan for any small hydropower project that will require a new or increased diversion from any natural stream, lake, or other body of water, as described in Section 1200 of the Water Code.

15353. (a) The secretary shall establish a Renewable Energy Loan Guarantee Committee for the purpose of approving loan guarantees based upon the criteria and procedures established by the agency. The secretary may include agency staff, the Director of Finance, representatives of other state agencies, and representatives of the **public** on the committee.

The secretary or his or her designee shall serve as the chairperson of the committee.

(b) The committee shall do both of the following:

(1) Hold regularly scheduled meetings, at least quarterly, to carry out the objectives and responsibilities of the committee.

(2) Approve loan guarantees under this article.

(c) The committee shall not approve any guarantee without a determination that, at a minimum, the applicant appears able to repay the guaranteed financing and the financing is adequately collateralized.

15354. (a) The Renewable Energy Loan Guarantee Committee shall comply with the California **Public** Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7), except as specified in subdivision (c).

(b) To the extent that the committee is subject to the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part (1), loan guarantee reviews described in paragraph (2) of subdivision (c) shall be exempt from the requirements of the act.

(c) The California **Public** Records Act and the Bagley-Keene Open Meeting Act shall not apply to the following activities of the committee:

(1) The disclosure of financial data contained in applications for loan guarantees from the Renewable Energy Loan Guarantee Committee, where the committee determines that disclosure of the financial data would be competitively injurious to the applicant. For this purpose, financial data includes, but is not limited to, financial statements, details of accounts receivable and accounts payable, income tax returns, owner-officer compensation records, collateral details, cash-flow analysis, orders, contracts, financing commitments and agreements, and other documents that would disclose specific names or addresses of customers and suppliers, potential customers and suppliers, or agency and consultant reports analyzing the financial data.

(2) Any loan guarantee review by the Renewable Energy Loan Guarantee Committee. For this purpose, the committee or a subcommittee of the committee may review and approve loan guarantee requests by means of a telephone conference, or in a meeting not open to the **public**.

15355. There is hereby created in the State Treasury the Renewable Energy Loan Loss Reserve Fund. All money in the fund is appropriated for the support of the agency and shall be available for expenditure for the purposes stated in this article. The fund shall be available for the receipt of federal, state, and local moneys,

and private donations.

15356. (a) The agency shall determine the percentage of the reserve in the Renewable Energy Loan Loss Reserve Fund required to secure loan guarantees made by the committee. However, in no event shall the reserve be less than 25 percent of the fund.

(b) The minimum amount that the agency may guarantee for any renewable energy system is twenty-five thousand dollars (\$25,000) and the maximum amount is two million dollars (\$2,000,000). The agency may elect to lower or raise the minimum or maximum amount if a change is found to be in the best interest of the state.

(c) The term of the guaranteed loan shall not exceed the useful life of the renewable energy system or 15 years, whichever is shorter.

(d) The amount guaranteed shall not exceed 90 percent of a loan, or an amount equal to the anticipated proportion of renewable fuel usage to fuel the renewable energy system, as authorized by paragraph (2) of subdivision (d) of Section 15351, whichever is less.

15357. The agency shall adopt criteria and procedures for the implementation of this article. The criteria and procedures shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1. The criteria and procedures shall include provisions for determining the maximum guarantee amount, leverage, percentage guaranteed, guarantee term, and other conditions of a guarantee. In developing the criteria and procedures for the program, the agency may consult with other state agencies, including the State Energy Resources Conservation and Development Commission. A consultation and **public** comment period shall begin on the effective date of this article, and shall end 30 days thereafter.

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 of Division 3 of Title 2, as provided in subdivision (e) of Section 11346.1.

15358. (a) The agency shall execute guarantees supported solely by funds in the Renewable Energy Loan Loss Reserve Fund.

(b) No guarantee shall be approved unless the eligible business agrees that all electricity generated by the project will be made available within California on a long-term contract basis, except that electricity may be made available outside California upon approval by the **Public Utilities** Commission.

15359. (a) The agency shall establish a reasonable schedule of administrative fees, not to exceed 2 percent of the guarantee amount, which shall be paid by the eligible business to reimburse the state for the costs of administering this article, including promotion and outreach.

(b) The agency may expend earnings on the deposits from, or up to 5 percent of, the Renewable Energy Loan Loss Reserve Fund for administrative expenses, for the respective fiscal year including promotion and outreach, in carrying out this chapter.

15360. The agency may contract with any state or other agency, persons, or firms to enable the agency to properly perform the duties of this article.

15361. The state shall not be liable or obligated in any way beyond the money that is allocated to the Renewable Energy Loan Loss Reserve Fund as a result of any loan guarantee under this article.

15362. The agency, with the approval of the Director of Finance, may request the Treasurer to invest the money in the Renewable Energy Loan Loss Reserve Fund. Returns from these investments shall be deposited in the fund and shall be used to support this article.

15362.5. Because of the need to immediately increase the availability of renewable energy sources, it is necessary to implement this article without delay. Therefore, from the effective date of this article, and for a period of 18 months thereafter, Section 10295 and Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the **Public** Contract Code shall

not apply to contracts entered into pursuant to this article. Any contract that is entered into during that 18-month period shall be awarded based upon the receipt of at least three bids, and the award shall be based on a combination of the expertise of the bidder, the bid price, and the probability that the services offered will meet the needs of the program.

SEC. 4. Chapter 4 (commencing with Section 14420) is added to Division 12 of the **Public** Resources Code, to read:

CHAPTER 4. MOBILE EFFICIENCY BRIGADE

14420. This chapter shall be known and may be cited as the Mobile Efficiency Brigade.

14421. The Legislature finds and declares all of the following:

(a) California is in the midst of a dramatic energy crisis that calls for both an increase in supply and a significant long-term reduction in demand.

(b) Conservation programs require a large mobilization effort across the state, within a short timeframe, in order to affect peak demand anticipated for the summer of **2001** and the subsequent winter.

(c) California's low-income households and small businesses require upgrading, modification, and conservation investment in order to assist them in contributing to a reduction in demand that is required statewide.

(d) Current state programs can work in conjunction with community-based organizations to significantly penetrate communities and rapidly implement programs aimed at conservation and demand reduction.

(e) The state currently has programs operated and administered by the Department of Community Services and Development and the California Conservation Corps, working in conjunction with and through community-based organizations, that can be expanded to assist in the statewide conservation effort initiated through pending programs.

(f) To the maximum extent feasible, the expenditure of funds appropriated pursuant to this chapter should be prioritized based upon immediate benefits in peak energy demand reduction and more efficient use of energy.

14422. As used in this chapter:

(a) "Community-based organization" means a nonprofit corporation that is exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code of 1986.

(b) "Program" means the Energy Conservation Act of **2001** (Chapter 5.3 (commencing with Section 25425) of Division 15).

(c) "Energy efficient appliance or measure" means anything that meets the efficiency standards of the United States Department of Energy that are effective on and after July 1, **2001**, and, if applicable, products certified as energy efficient zone heating products by the State Energy Resources Conservation and Development Commission.

(d) "Installation" means all labor needed to install energy efficient equipment, including any necessary construction.

(e) "Low-income household," in the context of the implementation of a specific program, shall be defined as each program specifies. Outside of a specific program, it means households at or below 200 percent of the federal poverty level.

(f) "Small business," in the context of the implementation of a specific program, shall be defined as each program specifies. Outside of a specific program, it means a licensed business that employs not more than 100 persons.

14423. Notwithstanding any other provision of law, the California Conservation Corps and the Department of Community Services and Development, in consultation with the State Energy Resources Conservation and Development Commission, shall expand their current

weatherization, energy-efficiency, and rehabilitation programs and assist in the implementation of pending programs as defined in Section 14422, in accordance with the following objectives:

(a) Determine the specifics of program expansion and focus on energy efficiency measures including, but not limited to, energy audits, weatherization including the insulation of doors, windows, walls and ceilings, light bulb replacement with subcompact fluorescent lights, installation of water-saving devices and heater exchanges, minor repairs and retrofits, appliance removal and replacement, and tree planting.

(b) Identify neighborhoods and areas with dense populations that can be easily served in large numbers.

(c) Establish qualifications and priorities consistent with the objectives of this chapter for making grants and working with community-based organizations.

(d) Establish guidelines for broad geographic distribution across the state, taking into consideration the factors of population density, community need, and seasonal climate conditions.

(e) Establish procedures and policies as may be necessary for the administration of this chapter.

14424. Any contracts entered into pursuant to this chapter by a state agency are exempt from the following requirements of the Government Code and the **Public** Contract Code:

(a) Services contracts and consulting services contracts are exempt from Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the **Public** Contract Code.

(b) All contracts are exempt from Section 10295 of the **Public** Contract Code, relating to approval from the Department of General Services.

(c) All contracts are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to advertising.

14425. This chapter shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 5. Chapter 5.3 (commencing with Section 25425) is added to Division 15 of the **Public** Resources Code, to read:

CHAPTER 5.3. ENERGY CONSERVATION ACT OF 2001

Article 1. General Provisions

25425. This chapter shall be known, and may be cited, as the Energy Conservation Act of **2001**.

25426. As used in this article, the following terms have the following meanings:

(a) "Commercial refrigeration" means a refrigerator that is not a federally regulated consumer product.

(b) "Energy-efficient model" means any appliance that meets the efficiency standards of the United States Department of Energy that are effective on and after July 1, **2001**, and, if applicable, products certified as energy efficient zone heating products by the State Energy Resources Conservation and Development Commission.

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

Article 2. Loans and Grants for Construction and Retrofit Projects

25433. It is the intent of the Legislature to establish incentives in the form of grants and loans to low-income residents, small businesses, and residential property owners for constructing and retrofitting buildings to be more energy efficient by using design elements, including, but not limited to, energy-efficient

siding, insulation, products certified as energy efficient zone heating products by the State Energy Resources Conservation and Development Commission, and double-paned windows.

25433.5. (a) In consultation with the **Public Utilities Commission**, the commission shall do both of the following for the purpose of full or partial funding of an eligible construction or retrofit project:

(1) Establish a grant program to provide financial assistance to eligible low-income individuals.

(2) Establish a 2-percent interest per annum loan program to provide financial assistance to a small business owner, residential property owner, or individual who is not eligible for a grant pursuant to paragraph (1). The loans shall be available to a small business owner who has a gross annual income that does not exceed one hundred thousand dollars (\$100,000) or to an individual or residential property owner who has a gross annual household income that does not exceed one hundred thousand dollars (\$100,000).

(b) (1) The commission shall use the design guidelines adopted pursuant to clause (ii) of subparagraph (D) of paragraph (3) of subdivision (d) of Section 14 of the act that added this section as standards to determine eligible energy-efficiency projects.

(2) The award of a grant pursuant to this section is subject to appeal to the commission upon a showing that the commission applied factors, other than those adopted by the commission, in making the award.

(3) The grant or loan recipient shall commit to using the grant or loan for the purpose for which the grant or loan was awarded.

(4) Any action taken by an applicant to apply for, or to become or remain eligible to receive, a grant award, including satisfying conditions specified by the commission, does not constitute the rendering of goods, services, or a direct benefit to the commission.

(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.

25434. The commission may contract with one or more business entities capable of supplying or providing goods or services necessary for the commission to carry out the responsibilities for the programs conducted pursuant to this article, and shall contract with one or more business entities to evaluate the effectiveness of the programs implemented pursuant to subdivision (a) of Section 25433.5. The commission may select an entity on a sole source basis for one or both of those purposes if the cost to the state will be reasonable and the commission determines that it is in the best interest of the state.

25434.5. As used in this article, the following terms have the following meanings:

(a) "Eligible construction or retrofit project" means a project for making improvements to a home or building in existence on the effective date of the act adding this section, through an addition, alteration, or repair, which effectively increases the energy efficiency or reduces the energy consumption of the home or building as specified by the commission's guidelines under clause (ii) of subparagraph (D) of paragraph (3) of subdivision (d) of Section 14 of the act that added this section. 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.

Article 3. Small Business Energy Efficient Refrigeration Loan Program

25435. The commission shall administer the Small Business Energy Efficient Refrigeration Loan Program, as provided for in Section 25436.

25436. (a) Within 45 days of the effective date of this chapter, the commission shall implement a Small Business Energy Efficient Refrigeration Loan Program for qualifying small businesses to purchase and install energy efficient refrigeration equipment.

(b) The program shall offer loans at 3 percent interest on terms that will ensure the small business owner will repay the loan over time in accordance with terms established by the Energy Commission, but in no event may the term exceed the useful life of the purchase.

(c) The commission may enter into agreements with lending institutions and qualifying vendors to facilitate making and administering loans. Any loan made by the commission for the purchase of equipment shall be secured against the equipment purchased.

SEC. 6. Section 26003 of the **Public** Resources Code is amended to read:

26003. As used in this division, unless the context otherwise requires:

(a) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004, and any board, commission, department, or officer succeeding to the functions of the authority, or to which the powers conferred upon the authority by this division shall be given.

(b) "Cost" as applied to a project or portion thereof financed under this division means all or any part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest therein, rights, rights-of-way, franchises, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which those buildings or structures may be moved; the cost of all machinery, equipment, and furnishings, financing charges, interest prior to, during, and for a period after, completion of construction as determined by the authority; provisions for working capital; reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, financial, accounting, auditing and legal services, plans, specifications, estimates, administrative expenses, and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction, acquisition, or financing of any project.

(c) (1) "Alternative sources" means the application of cogeneration technology, as defined in Section 25134; the conservation of energy; or the use of solar, biomass, wind, geothermal, hydroelectricity under 30 megawatts and meeting the criteria set forth in subdivision (b) of Section 15352 of the Government Code, or any other source of energy, the efficient use of which will reduce the use of fossil and nuclear fuels.

(2) "Alternative sources" does not include any hydroelectric facility that does not meet state laws pertaining to the control, appropriation, use, and distribution of water, including, but not limited to, the obtaining of applicable licenses and permits.

(d) "Advanced transportation technologies" means emerging commercially competitive transportation-related technologies identified by the authority as capable of creating long-term, high value-added jobs for Californians while enhancing the state's commitment to energy conservation, pollution reduction, and transportation efficiency. Those technologies may include, but are not limited to, any of the following:

- (1) Intelligent vehicle highway systems.
- (2) Advanced telecommunications for transportation.

(3) Command, control, and communications for **public** transit vehicles and systems.

(4) Electric vehicles and ultra-low emission vehicles.

(5) High-speed rail and magnetic levitation passenger systems.

(6) Fuel cells.

(e) "Financial assistance" includes, but is not limited to, either, or any combination, of the following:

(1) Loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, insurance, guarantees or other credit enhancements or liquidity facilities, contributions of money, property, labor, or other items of value, or any combination thereof, as determined by, and approved by the resolution of, the board.

(2) Any other type of assistance the authority determines is appropriate.

(f) "Participating party" means either of the following:

(1) Any person or any entity or group of entities engaged in business or operations in the state, whether organized for profit or not for profit, that applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(2) Any **public** agency or nonprofit corporation that applies for financial assistance from the authority for the purpose of implementing a project in a manner prescribed by the authority.

(g) "Project" means any land, building, improvement thereto, rehabilitation, work, property, or structure, real or personal, stationary or mobile, including, but not limited to, machinery and equipment, whether or not in existence or under construction, that utilizes, or is designed to utilize, an alternative source, or that is utilized for the design, technology transfer, manufacture, production, assembly, distribution, or service of advanced transportation technologies.

(h) "**Public** agency" means any federal or state agency, board, or commission, or any county, city and county, city, regional agency, **public** district, or other political subdivision.

(i) (1) "Renewable energy" means any device or technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses, that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

(2) For purposes of this subdivision, "conventional energy fuel" means any fuel derived from petroleum deposits, including, but not limited to, oil, heating oil, gasoline, fuel oil, or natural gas, including liquefied natural gas, or nuclear fissionable materials.

(3) Notwithstanding paragraph (1), for purposes of this section, "renewable energy" also means ultralow emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(j) "Revenue" means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from the sale, lease, or other disposition of alternative source or advanced transportation technology facilities, or the making of loans to finance alternative source or advanced transportation technology facilities, and any income or revenue derived from the investment of any money in any fund or account of the authority.

SEC. 7. Section 26011.5 of the **Public** Resources Code is amended to read:

26011.5. The authority, in consultation with the State Energy Resources Conservation and Development Commission, shall establish criteria for the selection of projects to receive financing

assistance from the authority. In the selection of projects, the authority shall, in accordance with the legislative intent, provide financial assistance under this division in a manner consistent with sound financial practice. In developing project selection criteria, the authority shall consider, but not be limited to, all of the following:

- (a) The technological feasibility of the projects.
- (b) The economic soundness of the projects and a realistic expectation that all financial obligations can and will be met by the participating parties.
- (c) The contribution that the projects can make to a reduction or more efficient use of fossil fuels.
- (d) The contribution that the project can make toward diversifying California's energy resources by fostering renewable energy systems that can substitute, or preferably eliminate, the demand for conventional energy fuels.
- (e) Any other such factors that the authority finds significant in achieving the purposes and objectives of this division.

SEC. 8. Section 26011.6 is added to the **Public** Resources Code, to read:

26011.6. (a) The authority shall establish a renewable energy program to provide financial assistance to **public** power entities, independent generators, **utilities**, or businesses manufacturing components or systems, or both, to generate new and renewable energy sources, develop clean and efficient distributed generation, and demonstrate the economic feasibility of new technologies, such as solar, photovoltaic, wind, and ultralow emission equipment. The authority shall give preference to utility-scale projects that can be rapidly deployed to provide a significant contribution as a renewable energy supply.

(b) The authority shall make every effort to expedite the operation of renewable energy systems, and shall adopt regulations for purposes of this section and Sections 26011.5 and 26011.7 as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For purposes of that Chapter 3.5, including Section 11349.6 of the Government Code, the adoption of the regulations shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the **public** peace, health and safety, and general welfare. Notwithstanding the 120-day limitation specified in subdivision (e) of Section 11346.1 of the Government Code, the regulations shall be repealed 180 days after their effective date, unless the authority complies with Sections 11346.2 to 11347.3, inclusive, as provided in subdivision (e) of Section 11346.1 of the Government Code.

(c) The authority shall consult with the State Energy Resources Conservation and Development Commission regarding the financing of projects to avoid duplication of other renewable energy projects.

(d) The authority shall ensure that any financed project shall offer its power within California on a long-term contract basis.

SEC. 9. Section 739 of the **Public Utilities** Code is amended to read:

739. (a) The commission shall designate a baseline quantity of gas and electricity which is necessary to supply a significant portion of the reasonable energy needs of the average residential customer. In estimating those quantities, the commission shall take into account differentials in energy needs between customers whose residential energy needs are currently supplied by electricity alone or by both electricity and gas. The commission shall develop a separate baseline quantity for all-electric residential customers. For these purposes, "all-electric residential customers" are residential customers having electrical service only or whose space heating is provided by electricity, or both. The commission shall also take into account differentials in energy use by climatic zone and season.

(b) (1) The commission shall establish a standard limited allowance which shall be in addition to the baseline quantity of gas and electricity for residential customers dependent on life-support equipment, including, but not limited to, emphysema and pulmonary patients. A residential customer dependent on life-support equipment shall be given a higher energy allocation than the average residential customer.

(2) "Life-support equipment" means that equipment which utilizes mechanical or artificial means to sustain, restore, or supplant a vital function, or mechanical equipment which is relied upon for mobility both within and outside of buildings. "Life-support equipment," as used in this subdivision, includes all of the following: all types of respirators, iron lungs, hemodialysis machines, suction machines, electric nerve stimulators, pressure pads and pumps, aerosol tents, electrostatic and ultrasonic nebulizers, compressors, IPPB machines, and motorized wheelchairs.

(3) The limited additional allowance shall also be made available to paraplegic and quadriplegic persons in consideration of the increased heating and cooling needs of those persons.

(4) The limited additional allowance shall also be made available to multiple sclerosis patients in consideration of the increased heating and cooling needs of those persons.

(5) The limited additional allowance shall also be made available to scleroderma patients in consideration of the increased heating needs of those persons.

(6) The limited allowance shall also be made available to persons who are being treated for a life-threatening illness or have a compromised immune system, provided that a licensed physician and surgeon or a person licensed pursuant to the Osteopathic Initiative Act certifies in writing to the utility that the additional heating or cooling allowance, or both, made available pursuant to this subdivision is medically necessary to sustain the life of the person or prevent deterioration of the person's medical condition.

(c) (1) The commission shall require that every electrical and gas corporation file a schedule of rates and charges providing baseline rates. The baseline rates shall apply to the first or lowest block of an increasing block rate structure which shall be the baseline quantity. In establishing these rates, the commission shall avoid excessive rate increases for residential customers, and shall establish an appropriate gradual differential between the rates for the respective blocks of usage.

(2) In establishing residential electric and gas rates, including baseline rates, the commission shall assure that the rates are sufficient to enable the electrical corporation or gas corporation to recover a just and reasonable amount of revenue from residential customers as a class, while observing the principle that electricity and gas services are necessities, for which a low affordable rate is desirable and while observing the principle that conservation is desirable in order to maintain an affordable bill.

(3) At least until December 31, 2003, the commission shall require that all charges for residential electric customers are volumetric, and shall prohibit any electrical corporation from imposing any charges on residential consumption that are independent of consumption, unless those charges are in place prior to the effective date of the act that added this paragraph.

(d) As used in this section:

(1) "Baseline quantity" means a quantity of electricity or gas for residential customers to be established by the commission based on from 50 to 60 percent of average residential consumption of these commodities, except that, for residential gas customers and for all-electric residential customers, the baseline quantity shall be established at from 60 to 70 percent of average residential consumption during the winter heating season. In establishing the baseline quantities, the commission shall take into account climatic

and seasonal variations in consumption and the availability of gas service. The commission shall review and revise baseline quantities as average consumption patterns change in order to maintain these ratios.

(2) "Residential customer" means those customers receiving electrical or gas service pursuant to a domestic rate schedule and excludes industrial, commercial, and every other category of customer.

(e) Wholesale electrical or gas purchases, and the rates charged therefor, are exempt from this section.

(f) Nothing contained in this section shall be construed to prohibit experimentation with alternative gas or electrical rate schedules for the purpose of achieving energy conservation.

SEC. 10. Section 739.10 is added to the **Public Utilities** Code, to read:

739.10. The commission shall ensure that errors in estimates of demand elasticity or sales do not result in material over or undercollections of the electrical corporations.

SEC. 10.2. Section 739.11 is added to the **Public Utilities** Code, to read:

739.11. (a) For purposes of this section, "real time metering" means a system for measuring a customer's usage of electricity on at least an hourly basis, variably pricing that electricity based on the cost of acquisition or production, and regularly providing and updating that usage and pricing information to the customer.

(b) The commission shall conduct a pilot study of real time metering for nonresidential customers. The purpose of the study is to determine the effectiveness of real time metering in reducing energy demand and overall energy consumption, to examine customer response, to determine how real time metering should be implemented, and to determine whether more widespread use of real time metering is in the **public** interest. The study shall not duplicate the study required pursuant to Section 393 of the **Public Utilities** Code. The study shall include rates that vary as the cost of electricity varies and provide appropriate telemetry and other equipment. The study shall include agricultural, large commercial, and industrial customer classes, and may include other customer classes if the commission determines that to do so would be in the **public** interest. The commission shall report to the Legislature on the results of the study by June 30, 2002.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 11. Section 2827 of the **Public Utilities** Code is amended to read:

2827. (a) The Legislature finds and declares that a program to provide net energy metering for eligible customer-generators is one way to encourage substantial private investment in renewable energy resources, stimulate in-state economic growth, reduce demand for electricity during peak consumption periods, help stabilize California's energy supply infrastructure, enhance the continued diversification of California's energy resource mix, and reduce interconnection and administrative costs for electricity suppliers.

(b) As used in this section, the following definitions apply:

(1) "Electric service provider" means an electrical corporation, as defined in Section 218, a local publicly owned electric utility, as defined in Section 9604, or an electrical cooperative, as defined in Section 2776, or any other entity that offers electrical service.

(2) "Eligible customer-generator" means a residential, small commercial customer as defined in subdivision (h) of Section 331, commercial, industrial, or agricultural customer of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of

not more than one megawatt that is located on the customer's owned, leased, or rented premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

(3) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). 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 customer-generator, at the expense of the electric service provider, and the additional metering shall be used only to provide the information necessary to accurately bill or credit the customer-generator pursuant to subdivision (e), 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 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 who already owns an existing solar or wind turbine electrical generating facility, or a hybrid system of both, is eligible to receive net energy metering service in accordance with this section.

(c) (1) Every electric service provider shall develop a standard contract or tariff providing for net energy metering, and shall make this contract available to eligible customer-generators, upon request.

(2) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that does not provide distribution service for the direct transactions, the service provider that provides distribution service for an eligible customer-generator is not obligated to provide net energy metering to the customer.

(3) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier, and the customer is an eligible customer-generator, the service provider that provides distribution service for the direct transactions may recover from the customer's electric service provider the incremental costs of metering and billing service related to net energy metering in an amount set by the commission.

(d) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if such customer was not an eligible customer-generator, except that eligible customer-generators shall not be assessed standby charges on the electrical generating capacity or the kilowatthour production of an eligible solar or wind electrical generating facility. The charges for all retail rate components for eligible customer-generators shall be based exclusively on the customer-generator's net kilowatthour consumption over a 12-month period, without regard to the customer-generator's choice of electric service provider. Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible customer-generator's costs beyond those of other customers in the rate class to which the eligible customer-generator would otherwise be assigned are contrary to the intent of this legislation, and shall not form a part of net energy metering contracts or tariffs.

(e) For eligible residential and small commercial

customer-generators, the net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible residential or small commercial customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and at each anniversary date thereafter, be billed for electricity used during that period. The electric service provider shall determine if the eligible residential or small commercial customer-generator was a net consumer or a net producer of electricity during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric service provider 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 service provider shall be owed compensation for the eligible customer-generator's net kilowatthour consumption over that same 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 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 service provider 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 service provider would charge for electricity over the baseline quantity during that billing period.

(B) For all eligible customer-generators taking service under 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 to 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 service provider would charge for retail kilowatthour sales during that same time of use period. If the eligible customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (3) of subdivision (b) shall apply.

(C) For all residential and small commercial customer-generators and for each monthly period, the net balance of moneys owed to the electric service provider for net consumption of electricity or credits owed to the customer-generator for net generation of electricity shall be carried forward until the end of each 12-month period. For all commercial, industrial, and agricultural customer-generators the net balance of moneys owed shall be paid in accordance with the electric service provider's normal billing cycle, except that if the commercial, industrial, or agricultural customer-generator is a net electricity producer over a normal billing cycle, any excess kilowatthours generated during the billing cycle shall be carried over to the following billing period, valued according to the procedures set forth in this section, and appear as a credit on the customer-generator's account, until the end of the

annual period when paragraph (3) of subdivision (e) shall apply.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric service provider during that same period, the eligible customer-generator is a net electricity producer and the electric service provider shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator shall not be owed any compensation for those excess kilowatthours unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours.

(4) The electric service provider shall provide every eligible residential or small commercial customer-generator with net electricity consumption information with each regular bill. That information shall include the current monetary balance owed the electric service provider for net electricity consumed since the last 12-month period ended. Notwithstanding subdivision (e), an electric service provider shall permit that customer to pay monthly for net energy consumed.

(5) If an eligible residential or small commercial customer-generator terminates the customer relationship with the electric service provider, the electric service provider shall reconcile the eligible customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation, according to the requirements set forth in this subdivision, except that those requirements shall apply only to the months since the most recent 12-month bill.

(6) If an electric service provider providing net metering to a residential or small commercial customer-generator ceases providing that electrical service to that customer during any 12-month period, and the customer-generator enters into a new net metering contract or tariff with a new electric service provider, the 12-month period, with respect to that new electric service provider, shall commence on the date on which the new electric service provider first supplies electric service to the customer-generator.

(f) 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 such as Underwriters Laboratories and, where applicable, rules of the **Public Utilities** 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.

(g) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 12. Section 2827 is added to the **Public Utilities** Code, to read:

2827. (a) The Legislature finds and declares that a program to provide net energy metering for eligible customer-generators is one way to encourage private investment in renewable energy resources, stimulate in-state economic growth, enhance the continued diversification of California's energy resource mix, and reduce interconnection and administrative costs for electricity suppliers.

(b) As used in this section, the following definitions apply:

(1) "Electric service provider" means an electric corporation, as defined in Section 218, a local publicly owned electric utility, as defined in Section 9604, or an electrical cooperative, as defined in Section 2776. "Electric service provider" also means an entity that offers electrical service to residential and small commercial customers, as defined in Section 394, if that entity offers net

energy metering. Any entity that offers net energy metering to residential and small commercial customers shall comply with this section.

(2) "Eligible customer-generator" means a residential customer, or a small commercial customer as defined in subdivision (h) of Section 331, of an electric service provider, who uses a solar or a wind turbine electrical generating facility, or a hybrid system of both, with a capacity of not more than 10 kilowatts that is located on the customer's premises, is interconnected and operates in parallel with the electric grid, and is intended primarily to offset part or all of the customer's own electrical requirements.

(3) "Net energy metering" means measuring the difference between the electricity supplied through the electric grid and the electricity generated by an eligible customer-generator and fed back to the electric grid over a 12-month period as described in subdivision (e). 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 customer-generator, at the expense of the electric service provider, and the additional metering shall be used only to provide the information necessary to accurately bill or credit the customer-generator pursuant to subdivision (e), 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 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 who already owns an existing solar or wind turbine electrical generating facility, or a hybrid system of both, is eligible to receive net energy metering service in accordance with this section.

(4) "Ratemaking authority" means, for an electrical corporation as defined in Section 218, or an electrical cooperative as defined in Section 2776, the commission, and for a local publicly owned electric utility as defined in Section 9604, the local elected body responsible for regulating the rates of the utility.

(c) (1) Every electric service provider shall develop a standard contract or tariff providing for net energy metering, and shall make this contract 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 equals one-tenth of 1 percent of the electric service provider's aggregate customer peak demand.

(2) On an annual basis, beginning in 1999, every electric service provider shall make available to the ratemaking authority information on the total rated generating capacity used by eligible customer-generators that are customers of that provider in the provider's service area. For those electric service providers who are operating pursuant to Section 394, they shall make available to the ratemaking authority the information required by this paragraph for each eligible customer-generator that is their customer for each service area of an electric corporation, local publicly owned electric utility, or electrical cooperative, in which the customer has net energy metering. The ratemaking authority shall develop a process for making the information required by this paragraph available to energy service providers, and for using that information to determine when, pursuant to paragraph (3), a service provider is not obligated to provide net energy metering to additional customer-generators in its service area.

(3) Notwithstanding paragraph (1), an electric service provider is not obligated to provide net energy metering to additional

customer-generators in its service area when the combined total peak demand of all customer-generators served by all the electric service providers in that service area furnishing net energy metering to eligible customer-generators equals one-tenth of 1 percent of the aggregate customer peak demand of those electric service providers.

(4) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that does not offer net energy metering and is therefore not an electric service provider, the customer is not an eligible customer-generator and the electric corporation, as defined in Section 218, that provides distribution service for the direct transactions, is not obligated to provide net energy metering to the customer.

(5) If a customer participates in direct transactions pursuant to paragraph (1) of subdivision (b) of Section 365 with an electric supplier that offers net energy metering and is therefore an electric service provider, and the customer is an eligible customer-generator, the electric corporation, as defined in Section 218, that provides distribution service for the direct transactions may recover from the customer's electric service provider the incremental costs of metering and billing service related to net energy metering in an amount set by the commission.

(d) Each net energy metering contract or tariff shall be identical, with respect to rate structure, all retail rate components, and any monthly charges, to the contract or tariff to which the same customer would be assigned if such customer was not an eligible customer-generator. The charges for all retail rate components for eligible customer-generators shall be based exclusively on the customer-generator's net kilowatthour consumption over a 12-month period, without regard to the customer-generator's choice of electric service provider that offers net energy metering and is subject to this section pursuant to paragraph (1) of subdivision (b), in accordance with subdivision (e). Any new or additional demand charge, standby charge, customer charge, minimum monthly charge, interconnection charge, or other charge that would increase an eligible customer-generator's costs beyond those of other customers in the rate class to which the eligible customer-generator would otherwise be assigned are contrary to the intent of this legislation, and shall not form a part of net energy metering contracts or tariffs.

(e) The net energy metering calculation shall be made by measuring the difference between the electricity supplied to the eligible customer-generator and the electricity generated by the eligible customer-generator and fed back to the electric grid over a 12-month period. The following rules shall apply to the annualized net metering calculation:

(1) The eligible customer-generator shall, at the end of each 12-month period following the date of final interconnection of the eligible customer-generator's system with an electric service provider, and at each anniversary date thereafter, be billed for electricity used during that period. The electric service provider shall determine if the eligible customer-generator was a net consumer or a net producer of electricity during that period.

(2) At the end of each 12-month period, where the electricity supplied during the period by the electric service provider exceeds the electricity generated by the eligible customer-generator during that same period, the eligible customer-generator is a net electricity consumer and the electric service provider shall be owed compensation for the eligible customer-generator's net kilowatthour consumption over that same period. The compensation owed for the eligible customer-generator's net 12-month kilowatthour consumption shall be calculated as follows:

(A) For eligible customer-generators taking service under 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 service provider 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 service provider would charge for electricity over the baseline quantity during that billing period.

(B) For eligible customer-generators taking service under 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 to 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 service provider would charge for retail kilowatthour sales during that same time of use period. If the eligible customer-generator's time of use electrical meter is unable to measure the flow of electricity in two directions, paragraph (3) of subdivision (b) shall apply.

(C) For all customer-generators and for each monthly period, the net balance of moneys owed to the electric service provider for net consumption of electricity or credits owed to the customer-generator for net generation of electricity shall be carried forward until the end of each 12-month period.

(3) At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric service provider during that same period, the eligible customer-generator is a net electricity producer and the electric service provider shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator shall not be owed any compensation for those excess kilowatthours unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours.

(4) The electric service provider shall provide every eligible customer-generator with net electricity consumption information with each regular bill. That information shall include the current monetary balance owed the electric service provider for net electricity consumed since the last 12-month period ended. Notwithstanding subdivision (e), an electric service provider shall permit that customer to pay monthly for net energy consumed.

(5) If an eligible customer-generator terminates the customer relationship with the electric service provider, the electric service provider shall reconcile the eligible customer-generator's consumption and production of electricity during any part of a 12-month period following the last reconciliation, according to the requirements set forth in this subdivision, except that those requirements shall apply only to the months since the most recent 12-month bill.

(6) If an electric service provider providing net metering to a customer-generator ceases providing that electrical service to that customer during any 12-month period, and the customer-generator enters into a new net metering contract or tariff with a new electric service provider, the 12-month period, with respect to that new electric service provider, shall commence on the date on which the new electric service provider first supplies electric service to the customer-generator.

(f) 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 such as Underwriters Laboratories and, where applicable, rules of the **Public Utilities** 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.

(g) This section shall become operative on January 1, 2003.

SEC. 12.5. Section 2827.5 is added to the **Public Utilities** Code, to read:

2827.5. The Legislature finds and declares that the repeal of the provisions of the net metering program for large customers merely reflects a legislative desire to revisit and more closely evaluate the cumulative value and effect of the state's policy regarding renewable energy sources on the economics of investment in solar and wind sources for large net metering customers and to ensure further legislative discussion regarding this issue.

SEC. 12.6. Section 2827.7 is added to the **Public Utilities** Code, to read:

2827.7. Generation eligible for net metering that is installed on or before December 31, 2002, shall be entitled, for the life of the installation, to the net metering terms in effect on the date of installation.

SEC. 13. No reimbursement is required by this act pursuant to Section 6 of Article XIIIIB of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIIB of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

SEC. 14. The sum of four hundred eight million six hundred fifty thousand dollars (\$408,650,000) is hereby appropriated or reappropriated to the Controller from the following sources:

(a) Twenty-five million one hundred fifty thousand dollars (\$25,150,000) from the Proposition 98 Reversion Account, reappropriated on a one-time basis from the Proposition 98 Reversion Account from moneys appropriated in the 2000-01 fiscal year to community colleges.

(b) Three hundred sixty-eight million five hundred thousand dollars (\$368,500,000) from the General Fund.

(c) The moneys reappropriated from the Proposition 98 Reversion Account shall be allocated to the Chancellor of the California Community Colleges who shall allocate those funds as follows:

(1) Twenty-five million dollars (\$25,000,000) to be expended for the purposes of implementing Article 2 (commencing with Section 81610) of Chapter 3 of Part 49 of Division 7 of Title 3 of the Education Code. The chancellor, in consultation with the State Energy Resources Conservation and Development Commission, shall allocate the funds in this paragraph to all community college districts statewide in an amount equivalent to a district's share of the total gross square footage of all permanent structures reported on the system's October 2000 Space Inventory Report. Notwithstanding any other provision of law, due to the urgent need to realize the necessary energy savings by the summer of **2001** these funds shall be made available to the districts within one week of the effective date

of this act. Any funds allocated pursuant to this paragraph that are unencumbered by October 30, **2001**, shall revert to the General Fund on that date.

(2) One hundred fifty thousand dollars (\$150,000) as a grant to the Community College League of California to provide a statewide data base of community college district utility usage for immediate application. The data base shall be accessible to the Chancellor's Office of the California Community Colleges as well as to all community college districts statewide to assist in conservation, facilities planning and energy management. The data base shall track the usage of electricity and natural gas, and may track the usage of water, sewer and other **utilities**. The data base shall further provide an ongoing audit of utility billings to check for billing errors and to ensure that districts recover potential billings that exceed cost of actual usage.

(d) The moneys appropriated from the General Fund shall be allocated as follows:

(1) The sum of forty million dollars (\$40,000,000) shall be deposited in the Renewable Energy Loan Loss Reserve Fund for the purposes of Article 4 (commencing with Section 15350) of Chapter 1 of Part 6.7 of Division 3 of Title 2 of the Government Code.

(2) (A) The sum of forty million dollars (\$40,000,000) shall be allocated to the California Conservation Corps for costs associated with the purchase, distribution, and installation of subcompact fluorescent lights, other energy savings measures, and water-saving devices for the purposes of Chapter 4 (commencing with Section 14420) of Division 12 of the **Public** Resources Code. It is the intent of the Legislature that the California Conservation Corps complete the distribution of the purchased materials by August 31, **2001**.

(B) The California Conservation Corps, in implementing the provisions of subparagraph (A), shall consult with the Department of Community Services and Development and the State Energy Resources Conservation and Development Commission, and shall provide for broad geographic distribution of the purchased materials throughout the state, identify neighborhoods and areas with dense populations that can easily be served in large numbers, and take into account community need.

(C) The California Conservation Corps shall report to the Legislature on or before October 31, **2001**, on the use of the funds allocated pursuant to this paragraph, the cost effectiveness of the activities, and the number of homes and businesses reached.

(3) The sum of twenty million dollars (\$20,000,000) shall be allocated to the Department of Community Services and Development for disbursement in the forms of grants to community-based organizations for the purposes of Chapter 4 (commencing with Section 14420) of Division 12 of the **Public** Resources Code, including, but not limited to, the rapid installation of energy efficiency measures.

(4) The sum of one hundred fifty-four million five hundred thousand dollars (\$154,500,000) shall be allocated to the State Energy Resources Conservation and Development Commission for allocation in accordance with the following schedule:

(A) Fifty million dollars (\$50,000,000) shall be expended in accordance with Article 2 (commencing with Section 25433) of Chapter 5.3 of Division 15 of the **Public** Resources Code.

(B) Fifty million dollars (\$50,000,000) shall be expended for electric metering programs. Thirty-five million dollars (\$35,000,000) shall be used to provide time-of-use or real time meters for customers whose usage is greater than 200 kilowatt. Fifteen million dollars (\$15,000,000) shall be provided to the **Public Utilities** Commission to fund the program described in Section 739.11 of the **Public Utilities** Code, which may be used for the purchase and installation of meters, related equipment, and other associated costs.

(C) Fifty million dollars (\$50,000,000) shall be expended for the Small Business Energy Efficient Refrigeration Loan Program provided

for in Section 25436 of the **Public** Resources Code.

(5) (A) The sum of fifty million dollars (\$50,000,000) shall be allocated to the State Energy Conservation Assistance Account created by Section 25416 of the **Public** Resources Code for expenditure by the State Energy Resources Conservation and Development Commission to provide loans at not less than a 3 percent per annum interest rate, and grants, as determined by the commission, pursuant to Chapter 5.2 (commencing with Section 25410) of Division 15 of the **Public** Resources Code.

(B) In allocating the funds pursuant to this paragraph, the State Energy Resources Conservation and Development Commission shall give priority to applications for energy conservation projects or energy conservation measures that can be completed on or before September 1, **2001**.

(6) The sum of four million five hundred thousand dollars (\$4,500,000) is hereby allocated to the State Energy Resources Conservation and Development Commission (Energy Commission) for expenditure to complete the Southeast Geysers Effluent Injection System (SGEIS), Phase 2 Project of the Basin 2000 Project in Lake County. This appropriation is to enable Basin 2000 to come online in December **2001**, to produce an additional 10 megawatts (MW) of geothermal power, which it and the Northern California Power Agency, the sole partner with the Lake County Sanitation District, commit to selling to the state at their cost to help with California's electricity crisis.

(7) The sum of twenty-five million dollars (\$25,000,000) shall be allocated to the California Alternative Energy and Advanced Transportation Financing Authority for the purpose of implementing Section 26011.6 of the **Public** Resources Code.

(8) (A) The State Energy Resources Conservation and Development Commission shall expand programs to promote clean distributed generation technologies neither owned nor controlled by electrical corporations. Pursuant to subparagraph (B) and subdivision (e), the incentives that the commission shall develop pursuant to this section shall address existing barriers to the increased use of these technologies, including, but not limited to, incentives to help reduce the initial system purchase price, develop low-cost financing mechanisms, offset interconnection fees charged by electrical corporations, and streamline the utility interconnection process by reducing administrative delay.

(B) The sum of fifteen million dollars (\$15,000,000) shall be deposited in the Emerging Renewable Resources Account in the Renewable Resource Trust Fund established pursuant to Section 445 of the **Public Utilities** Code. Notwithstanding Section 13340 of the Government Code, the money deposited in the Emerging Renewable Resources Account by this subparagraph is hereby continuously appropriated to the State Energy Resources Conservation and Development Commission, without regard to fiscal year, for the purposes specified in subparagraph (C).

(C) The money allocated pursuant this paragraph and subdivision (e) may be expended by the commission only for the following purposes:

(i) Twenty-two million dollars (\$22,000,000) for rebates available for small distributed emerging technologies that are eligible for funding pursuant to subdivision (d) of Section 383.5 of the **Public Utilities** Code that have a peak generating capacity of 10 kilowatts or less. The commission shall determine the maximum rebate level for small systems to be awarded pursuant to this clause. Within the maximum rebate level, the commission may provide for different rebate levels, such as higher rebate levels for systems installed and operational within a specified timeframe, or for targeted end-use customers that need additional financial support, such as for **public** schools and state and local governmental facilities.

(ii) Eight million dollars (\$8,000,000) for rebates for small distributed emerging technologies that are eligible for funding

pursuant to subdivision (d) of Section 383.5 of the **Public Utilities Code** that have a peak generating capacity of 10 kilowatts or less and that are located at a customer site receiving distribution service from a local publicly owned electric utility, as defined in Section 9604 of the **Public Utilities Code**. The commission shall determine the maximum rebate level for small systems to be awarded pursuant to this clause. Within the maximum rebate level, the commission may provide for different rebate levels, such as higher rebate levels for systems installed and operational within a specified timeframe, or for targeted end-use customers that need additional financial support, such as for **public** schools and state and local governmental facilities.

(iii) The commission shall ensure that projects eligible for rebates pursuant to clauses (i) and (ii) shall not also receive rebates from similar programs adopted by the **Public Utilities Commission**.

(D) Notwithstanding subdivision (d) of Section 383.5 of the **Public Utilities Code**, the commission may increase the maximum rebate levels for distributed emerging technologies eligible for funding under subdivision (d) of Section 383.5 of the **Public Utilities Code** that have a peak generating capacity greater than 10 kilowatts, if the commission determines that an increase is appropriate to further stimulate the installation of emerging renewable technologies in general or for targeted end-use customers that need additional financial support, such as **public** schools and state and local governmental facilities. The maximum incentive levels established by the commission may vary based on system size and type of end-use consumer.

(E) For purposes of this paragraph, "commission" means the State Energy Resources Conservation and Development Commission.

(9) In order to achieve a reduction in peak electricity demand, the sum of twenty-four million dollars (\$24,000,000) shall be allocated to the Department of Corrections to install systems to retrofit generating units to improve the environmental performance of existing electrical generating units.

(e) The sum of fifteen million dollars (\$15,000,000) shall be transferred from the Renewable Resource Trust Fund to the Emerging Renewable Resources Account in the Renewable Resource Trust Fund established under Section 445 of the **Public Utilities Code**. The money allocated pursuant to this subdivision may be expended by the commission only for the purposes specified in subparagraph (C) of paragraph (8) of subdivision (d).

(f) Funds appropriated pursuant to paragraph (4) of subdivision (d) shall be expended pursuant to guidelines adopted by the Energy Resources Conservation and Development Commission. The guidelines 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 and shall do all of the following:

(1) Establish cost effectiveness criteria for the programs funded.

Within 10 days from the date of the adoption of criteria pursuant to this paragraph, the commission shall provide a copy of the criteria to the Chairperson of the Legislative Budget Committee, to the chairpersons of the appropriate policy and fiscal committees of both houses of the Legislature, and to the Governor.

(2) Establish design guidelines for energy efficiency for programs to be eligible for funding under Section 25433 of the **Public Resources Code**. These guidelines shall exceed those standards established in Part 6 of Title 24 of the California Code of Regulations.

(3) Allow reasonable flexibility to shift funds among program categories in order to achieve the maximum feasible amount of energy conservation, peak load reduction, and energy efficiency by the earliest feasible date.

(4) Establish matching fund criteria where appropriate to ensure that entities eligible to receive funds appropriated pursuant to

paragraph (4) of subdivision (d) pay an appropriate share of the cost of acquiring or installing measures to achieve the maximum feasible amount of energy conservation, peak load reduction, and energy efficiency by the earliest feasible date.

(5) Establish mechanisms and criteria that ensure that funds expended pursuant to this subdivision through electric and gas corporations are not seized by the creditors of those corporations in the event of a bankruptcy. In implementing this paragraph, the commission shall adopt mechanisms such as the segregation of funds by the electric and gas corporations, the holding of those funds in trust until they are expended, and the reversion of funds to the General Fund in the event of a bankruptcy.

(6) Establish tracking and auditing procedures to ensure that funds are expended in a manner consistent with this section.

SEC. 14.5. (a) Any contracts entered into on or before September 1, 2001, pursuant to this act due to the energy crisis are exempt from the following requirements of the Government Code and the **Public Contract Code**:

(1) Services contracts and consulting services contracts are exempt from Article 4 (commencing with Section 10335) of Chapter 2 of Part 2 of Division 2 of the **Public Contract Code**.

(2) Architectural and engineering contracts are exempt from Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, and from Sections 6106.5 of the **Public Contract Code**.

(3) All contracts are exempt from Section 10295 of the **Public Contract Code**, relating to approval from the Department of General Services.

(4) All contracts are exempt from Chapter 6 (commencing with Section 14825) of Part 5.5 of Division 3 of Title 2 of the Government Code, relating to advertising.

(b) Grants may be awarded for projects or programs that include a group of related projects, or to a party who aggregates projects that directly benefit from the grant. The grants do not constitute the rendering of goods or services or a direct benefit to the agency making the grant. A party who aggregates projects may retain for administrative costs not more than 21/2 percent of the funds expended by the party.

(c) Approval of contracts and grants may be delegated to the agency executive director or an agency committee up to a maximum amount that is established by the respective commission or agency.

(d) Administrative costs for agencies participating in programs or projects pursuant to this act shall not exceed 21/2 percent of the amount allocated to the agency. For the purposes of this subdivision, "administrative costs" means personnel and overhead costs associated with the implementation of a measure or program. However, "administrative costs" does not include costs associated with marketing or evaluation of a measure of a program.

(e) Each participating agency receiving funds under this act shall file reports with the Joint Legislative Budget Committee, the chairs of the appropriations committees, and the Governor, as follows:

(1) An interim report by January 1, 2002.

(2) A final report by July 1, 2002.

(3) Annual reports for continuing programs, if the agency or program is not otherwise required to file annual reports by this act or any other provision of law.

SEC. 15. This act is an urgency statute necessary for the immediate preservation of the **public** peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to prevent rolling blackouts, and the shortage of electrical generating capacity in the state that endangers the health, welfare, and safety of the people of this state, it is necessary that this act take effect immediately.