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APPENDIX A
Senate Bill 123

Senate Bill No. 123

CHAPTER 52

An act to amend Section 11553.5 of the Government Code, to amend Sections 38561.3, 44268, and 44268.2 of, and to add Section 44268.4 to, the Health and Safety Code, to amend Section 379.10 of the Public Utilities Code, and to amend Sections 80400 and 80710 of the Water Code, relating to energy, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor July 10, 2023. Filed with Secretary of State July 10, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 123, Committee on Budget and Fiscal Review. Energy.

(1) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. Existing law requires the state board, by July 1, 2025, to develop, in consultation with specified stakeholders, a framework for measuring and then reducing the average carbon intensity of the materials used in the construction of new buildings, including those for residential uses. Existing law requires the framework to include a comprehensive strategy for the state's building sector to achieve a 40% net reduction in greenhouse gas emissions of building materials, as determined from a baseline calculated using data reported for the 2026 calendar year, as specified. Existing law requires the strategy to achieve this target as soon as possible, but no later than December 31, 2035, with an interim target of 20% net reduction by December 31, 2030. Existing law requires the state board, by July 1, 2029, to evaluate the feasibility and cost impact of achieving the interim target of 20% net reduction by December 31, 2030.

This bill would extend the date by which the state board is required to develop the above-described framework from July 1, 2025, to December 31, 2026, and would require the framework to only measure the average carbon intensity of the materials used in the construction of new buildings, including those for residential uses. The bill would require the board to develop the comprehensive strategy for the state's building sector to achieve a 40% net reduction in greenhouse gas emissions of building materials by December 31, 2028. The bill would extend the date by which the state board is required to evaluate the feasibility and cost impact of achieving the interim target of 20% net reduction from July 1, 2029, to December 31, 2029.

(2) Existing law requires an electric vehicle charging station that requires payment of a fee to allow a person desiring to use the station to pay by credit card or mobile technology. Existing law authorizes the State Air Resources

Board to adopt interoperability billing standards for network roaming payment methods for electric vehicle charging stations, as provided.

This bill would require an electric vehicle charging station that is newly installed or made publicly available to offer specified payment methods, as provided. The bill would authorize the State Energy Resources Conservation and Development Commission (Energy Commission), by regulation that is effective no earlier than January 1, 2028, to add or subtract from the payment methods required by the bill, as appropriate in light of changing technologies. The bill would vest the authority to implement and enforce those requirements on electric vehicle charging stations with the Energy Commission, and would specify that the state board has the authority to enforce the requirements on electric vehicle charging stations until the commission adopts regulations implementing those requirements.

(3) Existing law establishes the Energy Commission and requires the commission to be composed of 5 members. Existing law provides an annual salary for members of the Energy Commission, effective as of January 1, 1988, and prescribes a method by which it may be increased.

This bill would, for the 2023–24, 2024–25, and 2025–26 fiscal years, provide for an additional increase of 5% to the annual compensation of the members of the Energy Commission.

(4) Existing law establishes the self-generation incentive program to increase the deployment of distributed generation and energy storage systems to facilitate the integration of those resources into the electrical grid, improve efficiency and reliability of the distribution and transmission system, and reduce emissions of greenhouse gases, peak demand, and ratepayer costs. Existing law requires the Public Utilities Commission (PUC) to require the administration of the program for distributed energy resources until January 1, 2026. Existing law requires the PUC, in consultation with the Energy Commission, to authorize, until January 1, 2026, the annual collection of a specified amount for purposes of the program. Existing law requires the PUC, in administering the program, to use funds appropriated by the Legislature for purposes of providing incentives to eligible residential customers, including those receiving service from a local publicly owned electric utility, and specifically requires the PUC to allocate 70% of those funds for incentives to eligible low-income residential customers who install either new behind-the-meter solar photovoltaic systems paired with energy storage systems or new energy storage systems and 30% of those funds for incentives to residential customers who install new behind-the-meter energy storage systems.

This bill would instead require the PUC to allocate all of the funds appropriated by the Legislature to eligible low-income residential customers who install either behind-the-meter solar photovoltaic systems paired with energy storage systems or energy storage systems.

Under existing law, a violation of an order, decision, rule, direction, demand, or requirement of the PUC is a crime.

Because a violation of an order or decision of the PUC implementing the allocation of funds would be a crime, this bill would impose a state-mandated local program.

(5) Existing law establishes the policy of the state that eligible renewable energy resources and zero-carbon resources supply 100% of electricity procured to serve all state agencies by December 31, 2035. Existing law requires the Department of Water Resources to procure eligible renewable energy resources and zero-carbon resources to satisfy the state agency obligations imposed on the State Water Resources Development System, commonly known as the State Water Project, pursuant to that policy. Existing law authorizes the department to satisfy all or a portion of those obligations by installing zero-carbon resources or eligible renewable energy resources behind the meter on State Water Resources Development System property to service its load.

This bill would additionally authorize the department to satisfy all or a portion of those obligations by connecting zero-carbon resources or eligible renewable energy resources behind the meter on State Water Resources Development System property to service its load.

(6) Existing law authorizes the Department of Water Resources to reimburse an electrical corporation for the value of imported energy or import capacity products that were delivered or capable of being delivered between July 1, 2022, and on or before September 30, 2022, and were procured at above-market costs or in excess of procurement authorizations set by the PUC and above the requirements needed to serve its bundled customers in support of summer electric service reliability. Existing law establishes the Department of Water Resources Electricity Supply Reliability Reserve Fund and continuously appropriates the moneys in the fund to the department for, among other things, those reimbursements.

This bill would additionally authorize the department to reimburse an electrical corporation for the value of imported energy or import capacity products delivered or capable of being delivered between October 1, 2022, and on or before October 31, 2023, and procured as described above. By expanding the purposes for which moneys in a continuously appropriated fund may be used, the bill would make an appropriation.

(7) 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.

This bill would provide that no reimbursement is required by this act for a specified reason.

(8) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 11553.5 of the Government Code is amended to read:

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

- (1) Member of the Agricultural Labor Relations Board.
- (2) Member of the State Energy Resources Conservation and Development Commission.
- (3) Member of the Public Utilities Commission.
- (4) Member of the Public Employment Relations Board.
- (5) Member of the Unemployment Insurance Appeals Board.
- (6) Member of the Workers' Compensation Appeals Board.
- (7) Member of the State Water Resources Control Board.
- (8) Member of the Cannabis Control Appeals Panel.

(b) (1) The annual compensation provided by this section shall be increased in any fiscal year in which a general salary increase is provided for state employees. The amount of the increase provided by this section shall be comparable to, but shall not exceed, the percentage of the general cost-of-living salary increases provided for state employees during that fiscal year.

(2) In addition to the annual increase provided in paragraph (1), the members of the Public Utilities Commission shall receive an annual salary increase of 5 percent in each of the 2021–22, 2022–23, and 2023–24 fiscal years.

(3) In addition to the annual increase provided in paragraph (1), the members of the State Energy Resources Conservation and Development Commission shall receive an annual salary increase of 5 percent in each of the 2023–24, 2024–25, and 2025–26 fiscal years.

(c) Notwithstanding subdivision (b), any salary increase pursuant to paragraph (1) of subdivision (b) is subject to Section 11565.5.

SEC. 2. Section 38561.3 of the Health and Safety Code is amended to read:

38561.3. (a) (1) By December 31, 2026, the state board, in consultation with relevant stakeholders, including, but not limited to, the California Building Standards Commission, the Department of Housing and Community Development, and the State Energy Resources Conservation and Development Commission, shall develop a framework for measuring the average carbon intensity of the materials used in the construction of new buildings, including those for residential uses, compared to the baseline.

(2) The state board shall also develop, by December 31, 2028, a comprehensive strategy for the state's building sector to achieve a 40-percent net reduction in greenhouse gas emissions of building materials as soon as possible, but no later than December 31, 2035. The baseline for the 40-percent net reduction shall be established based on an industry average of environmental product declarations reported for the 2026 calendar year.

The state board shall determine the industry average by consulting recognized databases of environmental product declarations and data submitted to the state board by material manufacturers during the 2026 reporting year. If the state board determines that the environmental product declarations available do not adequately represent the industry as a whole, the state board may use industrywide environmental product declarations based on domestic production data for its calculation of the industry average.

(3) To ensure adequate progress is made toward achieving the goal established in paragraph (2), the state board shall utilize an interim target of 20-percent net reduction by December 31, 2030.

(4) (A) By December 31, 2029, the state board shall evaluate the feasibility and cost impact of achieving the interim target established under paragraph (3). The state board may adjust the interim target upward or downward to reflect technological advancements and progress in addressing barriers to the deployment of greenhouse gas emissions reduction technologies and processes in the manufacturing of building materials.

(B) If the state board reduces the interim target of 20-percent net reduction established under paragraph (3), the state board shall document the feasibility and cost impact constraints the state board has identified and recommend measures and actions, including proposed statutory changes, necessary to overcome those constraints to enable the building sector to achieve a 40-percent net reduction in emissions of greenhouse gases of building materials as soon as possible, but no later than December 31, 2035.

(b) The framework developed pursuant to subdivision (a) shall include both of the following:

(1) A requirement for the submission by an entity undertaking the construction of a project with a minimum size of five new residential units or 10,000 square feet of nonresidential building space of a life-cycle assessment, as defined in the International Organization for Standardization (ISO) 14040 series of standards with a focus on the Product Stage phases (A1-A3), to determine the carbon intensity of the materials used in new residential and nonresidential buildings.

(2) A requirement for the submission by the manufacturer of a building material of an Environmental Product Declaration, Type III, as defined by the International Organization for Standardization (ISO) Standard 14025, or similarly robust life-cycle assessment methods that have uniform standards in data collection consistent with ISO Standard 14025, industry acceptance, and integrity for construction materials used for the building. The state board shall determine how to proceed in the event that insufficient life-cycle assessments or Environmental Product Declarations exist, or in the event of significant supply chain issues.

(c) The framework developed pursuant to subdivision (a) may include a tracking and reporting mechanism that would facilitate the achievement of the goals set forth in this section. Except for a fee to reimburse the state board for any administrative costs incurred in administering the reporting mechanism, the state board shall not impose any other charges on the participants in the reporting mechanism authorized under this subdivision.

(d) Based on the information submitted by an entity undertaking the construction of a covered project pursuant to paragraph (1) of subdivision (h), the state board shall evaluate the cost impact and feasibility of implementation, and establish a system for addressing known cost impact and feasibility issues in strategy implementation.

(e) As used in this section the following terms have the following meanings:

(1) “Feasibility,” in regard to the use of a material, means all of the following:

(A) The material is capable of being installed in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

(B) The material does not harm the health or safety of those who install the materials or occupy the building.

(C) The building using the material can be designed to provide an equivalent function and, at a minimum, the same useful life, performance, and durability as the building made with baseline materials.

(D) The material is commercially available to the region of the project.

(E) The material has not been involved in a claim for a construction or design defect, breach of express or implied warranty, fraud, or misrepresentation.

(F) The material provides an equivalent function and at least the same useful life, performance, and durability as the baseline material.

(2) (A) “Cost impact” means a significant overall material or operational cost increase or schedule delay resulting from incorporating the lower carbon material.

(B) As used in subparagraph (A), “significant” means an increase of 5 percent or more in the operational or overall material cost at the location of the project or time schedule delay that is attributable to incorporating a lower carbon material compared to the baseline material for which it is a substitute in the project. For purposes of this paragraph, the baseline material shall be the material that would have been used by the entity undertaking the construction of the project if this section did not apply to the project at the time the application for the building permit is submitted for a model home or project pursuant to subdivision (h).

(f) The state board shall allow the entity undertaking the construction of a project to use the same persons as those responsible for the Certificate of Installation pursuant to paragraph (3) of subdivision (a) of Section 10-103 of Title 25 of the California Code of Regulations in submitting, reporting, notifying, tracking, or otherwise conveying information to the state board.

(g) The targets established by this section shall begin to apply no sooner than January 1, 2027. The applicable target for each residential unit built within a project shall be the target that applied at the time the application was submitted for a building permit of the first model home in the project. For projects that do not use model homes, the applicable target shall be the target in effect at the time of submission of the application for the building permit.

(h) (1) The incorporation of lower carbon materials shall be limited or excluded to the extent that it has a cost impact or is unfeasible. If the entity undertaking the construction of a project finds that it is unable to achieve the applicable target due to unfeasibility or cost impact and there are no alternative materials or methods that are feasible and without cost impact that would allow the project to achieve the target, then the project shall be deemed to comply with the applicable target. In such a case, the entity undertaking the construction of a project shall provide the state board with information that explains the steps they took to meet the target and why they were unable to meet the target.

(2) (A) The state board shall form and maintain a technical advisory committee composed of representatives of building product manufacturers, builders, and design professionals. The technical advisory committee shall review information submitted pursuant to paragraph (1).

(B) After the entity completes the project, the technical advisory committee shall make recommendations to the entity on what steps it could take for future similar projects that would increase the entity's ability to meet the target.

(C) The state board and the technical advisory committee shall not have the authority to approve, deny, or delay the planning, use, development, design, or construction of a project.

(i) The provisions of this section do not apply to appliances.

(j) For purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), no adverse environmental impact associated with the manufacture of building materials may be attributed, directly or indirectly, to the project incorporating the building material. This subdivision does not relieve the entity undertaking the construction of a covered project from complying with any other provision within this section.

(k) The state board shall do both of the following:

(1) Research and prioritize actions and provisions that leverage state and federal incentives, where applicable, to reduce costs of implementing greenhouse gas emissions reduction technologies, processes, and materials used in construction-related projects for the construction industry, homeowners, and developers, and to increase economic value for the state.

(2) Evaluate measures to support market demand and financial incentives to encourage the production and use of materials used in construction-related projects with low greenhouse gas intensity, including, but not limited to, consideration of both of the following measures:

(A) Measures to expedite the adoption for use in projects undertaken by state agencies, including the Department of Transportation and the Department of General Services.

(B) Measures to provide financial support and incentives for research, development, and demonstration of technologies to mitigate emissions of greenhouse gases from the manufacture of materials used in construction-related projects, with the objective of accelerating commercial availability of those technologies.

SEC. 3. Section 44268 of the Health and Safety Code is amended to read:

44268. As used in this chapter, the following terms have the following meanings:

(a) “Battery” means an electrochemical energy storage system powered directly by electrical current.

(b) “Commission” means the State Energy Resources Conservation and Development Commission.

(c) “Electric vehicle” means a vehicle that uses a plug-in battery to provide all or part of the motive power of the vehicle, including battery electric, plug-in hybrid electric, or plug-in fuel cell vehicle.

(d) “Electric vehicle charging station” means one or more publicly available parking spaces served by electric vehicle service equipment.

(e) “Electric vehicle service equipment” means an electric component assembly or cluster of component assemblies designed specifically to charge batteries within electric vehicles by permitting the transfer of electric energy to a battery or other storage device in an electric vehicle.

(f) “Interoperability billing standards” means the ability for a member of one electric charging station billing network to use another billing network.

(g) “Network roaming” means the act of a member of one electric vehicle charging station billing network using a charging station that is outside of the member’s billing network with the member’s billing network account information.

(h) “Publicly available parking space” means a parking space that has been designated by a property owner or lessee to be available to, and accessible by, the public and may include on-street parking spaces and parking spaces in surface lots or parking garages. “Publicly available parking space” shall not include a parking space that is part of, or associated with, a private residence, a parking space that is reserved for the exclusive use of an individual driver or vehicle or for a group of drivers or vehicles, such as employees, tenants, visitors, residents of a common interest development, or residents of an adjacent building, or a parking space provided by a producer of electric vehicles as a service. Nothing in this article limits the ability of an owner or lessee of a publicly available parking space whose primary business is other than electric vehicle charging from restricting use of the parking space, such as limiting use to customers and visitors of the business.

SEC. 4. Section 44268.2 of the Health and Safety Code is amended to read:

44268.2. (a) (1) Persons desiring to use an electric vehicle charging station that requires payment of a fee shall not be required to pay a subscription fee in order to use the station, and shall not be required to obtain membership in any club, association, or organization as a condition of using the station. The total actual charges for the use of an electric vehicle charging station, including any additional network roaming charges for nonmembers, shall be disclosed to the public at the point of sale.

(2) Notwithstanding paragraph (1), an electric vehicle charging station may offer services on a subscription- or membership-only basis provided those electric vehicle charging stations allow nonsubscribers or nonmembers the ability to use the electric vehicle charging station through the payment options detailed in paragraph (3).

(3) (A) An electric vehicle charging station that requires payment of a fee and that is first installed or first made publicly available on or after the effective date of this paragraph, at a minimum, shall provide both of the following:

(i) A contactless payment method that accepts major credit and debit cards. For purposes of this clause, “contactless payment method” means a secure method for consumers to purchase services using a debit card, credit card, smartcard, or another payment device, by using radio frequency identification (RFID) technology and near-field communication (NFC).

(ii) Either an automated toll-free telephone number or a short message system (SMS) that provides the electric vehicle charging customer with the option to initiate a charging session and submit payment.

(B) A direct current fast charging station that is first installed or first made publicly available on or after the effective date of this paragraph shall also include Plug and Charge payment capabilities meeting the International Organization for Standardization (ISO) 15118 standard no later than one year after this effective date of this paragraph.

(C) The commission, by regulation that is effective no earlier than January 1, 2028, may add to or subtract from payment methods required by this paragraph, as appropriate in light of changing technologies.

(b) The service provider of electric vehicle service equipment at an electric vehicle charging station or its designee shall disclose to the National Renewable Energy Laboratory the electric vehicle charging station’s geographic location, a schedule of fees, accepted methods of payment, and the amount of network roaming charges for nonmembers, if any.

(c) Electric vehicle charging stations shall be labeled in accordance with Part 309 of Title 16 of the Code of Federal Regulations, and, where commercially reasonable and feasible, may be clearly marked with appropriate directional signage in the parking area or facility where they are located.

(d) If no interoperability billing standards have been adopted by a national standards organization by January 1, 2015, the commission may adopt interoperability billing standards for network roaming payment methods for electric vehicle charging stations. If the commission adopts interoperability billing standards, all electric vehicle charging stations that require payment shall meet those standards within one year. Any standards adopted by the commission shall consider other governmental or industry-developed interoperability billing standards and may adopt interoperability billing standards promulgated by an outside authoritative body.

SEC. 5. Section 44268.4 is added to the Health and Safety Code, to read:

44268.4. (a) Except as provided in subdivision (b), this chapter shall be implemented and enforced by the commission.

(b) Until the commission adopts regulations implementing this chapter, the state board has the authority to enforce this chapter. Regulations adopted by the commission to implement this chapter shall supersede any regulations adopted by the state board implementing this chapter.

SEC. 6. Section 379.10 of the Public Utilities Code is amended to read:

379.10. (a) In administering the self-generation incentive program pursuant to Section 379.6, the commission shall use funds appropriated by the Legislature for the purpose of providing incentives to eligible low-income residential customers, including those receiving service from a local publicly owned electric utility, as defined pursuant to Section 224.3, who install behind-the-meter energy storage systems or solar photovoltaic systems paired with energy storage systems, as an integrated approach to increase individual customer resiliency, to reduce the electrical grid's net peak demand, to reduce electric ratepayer costs, and to reduce emissions of greenhouse gases and localized air pollution.

(b) The commission shall consider requiring customers installing solar photovoltaic systems paired with energy storage systems or new energy storage systems under this section and served on a standard contract or tariff pursuant Section 2827.1 to participate in a demand response or peak load reduction program offered through the customer's load-serving entity, including market-integrated supply-side demand response programs, to reduce net peak demand.

SEC. 7. Section 80400 of the Water Code is amended to read:

80400. (a) (1) The department shall procure eligible renewable energy resources and zero-carbon resources to satisfy the state agency obligations imposed on the State Water Resources Development System, commonly known as the State Water Project, pursuant to subdivision (a) of Section 454.53 of the Public Utilities Code.

(2) If the department determines that the full achievement of the state agency obligations imposed on the State Water Resources Development System would require the early termination of an existing contract to procure fossil generation entered before January 1, 2010, and that early termination would result in significant uneconomic costs, the department may defer procuring zero-carbon electricity resource quantities equal to the amount of electricity provided under the existing contract until no later than December 31, 2040.

(3) In the event that extraordinary circumstances, catastrophic events, considerable supply chain disruptions and equipment shortages, or threats of significant economic harm render full achievement of the obligations imposed on the State Water Resources Development System pursuant to subdivision (a) of Section 454.53 of the Public Utilities Code infeasible, the Governor may adjust the applicable deadline for the department's compliance to the earliest feasible date, but that date shall be no later than December 31, 2040.

(b) The department may satisfy all or a portion of the obligation on the State Water Resources Development System pursuant to subdivision (a) of Section 454.53 of the Public Utilities Code by installing or connecting zero-carbon resources or eligible renewable energy resources behind the meter on State Water Resources Development System property or properties to service its load.

(c) All resources procured pursuant to subdivision (a) after February 1, 2022, shall satisfy both of the following criteria:

(1) The eligible renewable energy resources and zero-carbon resources shall either be newly developed as a result of contracting by the department or constitute incremental production from existing resources and reach initial commercial operations on or after January 1, 2023. This requirement may be satisfied if the resource is newly developed by a local publicly owned electric utility with the expectation that the output would be sold to the department in support of the State Water Resources Development System.

(2) The eligible renewable energy resources and zero-carbon resources shall be located within California or have a first point of interconnection to a California balancing authority.

(d) In conducting procurement pursuant to subdivision (a), the department shall consider all of the following:

(1) Procurement commitments that may yield maximum long-term employment, stimulate new economic activity, generate local and state tax revenues, and assist with the development of new industries.

(2) Attributes, including resource adequacy, flexibility, and integration value, the ability to provide firm clean electricity, and local air quality benefits.

(3) The results of integrated resource planning modeling conducted by the Public Utilities Commission pursuant to Section 454.52 of the Public Utilities Code.

(e) The department shall consider doing all of the following to reduce the costs of any procurement made pursuant to this section:

(1) Coordinate with the California Infrastructure and Economic Development Bank to make low-cost financing assistance available to new projects included in any procurement commitments.

(2) Coordinate with other state agencies to identify incentives from existing programs for new projects included in any procurement commitments.

(3) If reasonably expected to provide incremental benefits, secure an ownership stake or royalties for any project or economic activity resulting from a contractual commitment.

(f) All resources procured pursuant to this section shall be used first to meet the department's own electricity needs. A renewable energy credit, as defined in Section 399.12 of the Public Utilities Code, associated with the electricity used to satisfy the obligations of the department and the State Water Resources Development System under this section shall be retired and shall not be transferred or resold.

(g) The department shall enter into an agreement to procure energy from a new energy generation facility only if the seller requires its contractors to use a multicraft project labor agreement, as defined in paragraph (1) of subdivision (b) of Section 2500 of the Public Contract Code, for construction of the facility. Those project labor agreements shall conform to the industry standard agreements recently used for other similar private projects, including side letters for high-voltage transmission and related work.

SEC. 8. Section 80710 of the Water Code is amended to read:

80710. (a) The department, in consultation with the commission, shall implement projects, purchases, and contracts to carry out the purposes of Chapter 8.9 (commencing with Section 25790) of Division 15 of the Public Resources Code, including, but not limited to, the Distributed Electricity Backup Assets Program and the Demand Side Grid Support Program.

(b) (1) In furtherance of subdivision (a) and notwithstanding any other law, the department may construct, own and operate, or contract for the construction and operation of, contract for the purchase of electricity from, or finance through loans, reimbursement agreements, or other contracts actions to secure resources for summer reliability or to preserve the option to extend the life of only the following facilities:

(A) Extension of the operating life of existing nonnuclear generating facilities planned for retirement.

(B) New emergency and temporary power generators of five megawatts or more. If a generator is operated using diesel fuel, the department shall not operate it after July 31, 2023.

(C) New energy storage systems that are located outside of the coastal zone and the jurisdiction of the San Francisco Bay Conservation and Development Commission, of 20 megawatts or more, that are capable of discharging for at least two hours, and with an operational date no later than December 31, 2024.

(D) Generation facilities that are located outside of the coastal zone and the jurisdiction of the San Francisco Bay Conservation and Development Commission and use clean, zero-emission fuel technology of any size to produce electricity.

(E) Supporting the development of zero-emission generation capacity with a point of interconnection at a California balancing authority, with the majority of its capacity contracted for by a load-serving entity that has a service area primarily in California, with an operational date no later than December 31, 2024. For purposes of this subparagraph, only a facility with a net qualifying capacity of at least 50 percent of its nameplate capacity, as estimated at 8:00 p.m. on a date in September, shall be eligible.

(2) In furtherance of subdivision (a) of Section 80700, the department may reimburse electrical corporations, as defined in Section 218 of the Public Utilities Code, for the value of imported energy or import capacity products that are (A) delivered or capable of being delivered between July 1, 2022, and on or before October 31, 2023, and (B) are procured at above-market costs or in excess of procurement authorizations set by the

Public Utilities Commission and above the requirements needed to serve its bundled customers in support of summer electric service reliability.

(c) Facilities constructed by the department or under a contract with the department pursuant to this division that use any form of fossil fuel shall only operate as necessary to respond to extreme events, as defined in subdivision (b) of Section 25790.5 of the Public Resources Code, and shall not operate at any other time.

(d) Facilities constructed by the department or under a contract with the department pursuant to this division shall not constitute State Water Resources Development System facilities under Chapter 8 (commencing with Section 12930) of Part 6 of Division 6.

(e) (1) The department shall consult with the commission, the Public Utilities Commission, the Independent System Operator or other applicable California balancing authorities, and the State Air Resources Board in carrying out the purposes of this division.

(2) Beginning October 1, 2022, and at least every three months thereafter, the department shall provide an update on the investments made and being considered into the strategic reliability reserve at a commission business meeting. The President of the Public Utilities Commission or the president's designee and the President of the Independent System Operator or the president's designee shall attend the presentation.

(3) The department shall prioritize investments that do not compete with generating facilities already planned for development and disclosed by load-serving entities or local publicly owned electric utilities.

(4) In fulfilling the requirements of this division to achieve electricity reliability, the department shall prioritize investments in feasible, cost-effective zero-emission resources, and then feasible, cost-effective conventional resources.

(f) The department shall develop, execute, and implement contracts covering power generation, operation and maintenance, fuel management, site leases, power settlements, invoice verification, billing, and other associated items. The department shall also enter into contracts for external services to provide specialized expertise.

(g) (1) Contracts entered into pursuant to this division, amendments to those contracts during their terms, or contracts for services reasonably related to those contracts, and entered on or before December 31, 2023, shall not be subject to competitive bidding or any other state contracting requirements, shall not require the review, consent, or approval of the Department of General Services or any other state department or agency, and are not subject to the requirements of the State Contracting Manual, the Public Contract Code, or the personal services contracting requirements of Article 4 (commencing with Section 19130) of Chapter 5 of Part 2 of Division 5 of Title 2 of the Government Code.

(2) This subdivision shall not apply to any contract, grant, or loan entered into for purposes of this chapter that does not directly contribute to electrical grid reliability by October 31, 2027.

(3) This subdivision is inoperative December 1, 2026.

(h) For contracts entered into pursuant to this division, amendments to those contracts during their terms, or contracts for services reasonably related to those contracts, and executed after December 31, 2023, Sections 10295, 10297, and 10340 of the Public Contract Code do not apply to a contract that meets the conditions established by the department for those contracts.

(i) For contracts entered into pursuant to this division by the department after October 31, 2022, the department shall notify the commission of the terms, costs, and scope at a commission business meeting and the commission shall consider the investment plan for approval in a meeting held consistent with the terms of Chapter 3 (commencing with Section 25200) of Division 15 of the Public Resources Code. No less than 10 days after the commission approves the contract, grant, investment, or loan, the executive director of the commission shall give written notice to the Joint Legislative Budget Committee of the action.

(j) A contract entered into, or an approval granted by the department pursuant to this division is not subject to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and regulations adopted pursuant to that act.

(k) The department may adopt guidelines to implement this division. The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) does not apply to any regulation or guidelines adopted by the department pursuant to this division.

SEC. 9. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because 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 XIII B of the California Constitution.

SEC. 10. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

(END OF APPENDIX A)