STATE OF CALIFORNIA | Public Utilities Commission
San Francisco

M e m o r a n d u m

Date: July 31, 2012

To: The Commission
(Meeting of August 2, 2012)

From: Lynn Sadler, Director
Office of Governmental Affairs (OGA) — Sacramento

Subject: **SB 1572 (Pavley) – CA Global Warming Solutions Act of 2006: AB 32 Investment Fund.**
As amended: June 25, 2012

LEGISLATIVE SUBCOMMITTEE RECOMMENDATION: SUPPORT IF AMENDED

SUMMARY OF BILL:

This bill would add a new article, the "AB 32 Investment Fund," to Title 2 of the Government Code to create the Greenhouse Gas Reduction Account, a special fund in the State Treasury that will hold revenue from the sale of greenhouse gas (GHG) allowances collected during the 2012-2013 fiscal year (excluding revenue from allowances allocated to the investor-owned utilities (IOUs)) for specified "priority projects" outlined in the bill. The amount of money appropriated would represent the lesser of 50% or $250 million of the monies flowing into the Air Polluiton Control Fund from the sale of unallocated emissions allowances under the cap and trade program for the 2012 – 2013 fiscal year.

These priority projects must achieve GHG reductions at reasonable cost, in addition to other policy objectives. The funding the bill allocates to each of the identified priority projects is as follows:

- the greater of 35.6% of funds in the Investment Fund or $89 million to the California Energy Commission (CEC) for public K-12 school energy programs;
- the greater of 8% of funds in the Investment Fund or $20 million to public universities that are covered entities under the cap-and-trade program for projects that reduce GHG emissions;
- the greater of 12% of funds in the Investment Fund or $30 million for the CPUC's self-generation incentive program (SGIP), subject to certain restrictions;

- the greater of 4% of funds in the Investment Fund or $10 million for the federal weatherization assistance program administered by the Dept. of Community Services and Development;
- the greater of 1.6% of funds in the Investment Fund or $4 million to the CEC for its existing (suspended) Agricultural Industry Energy Program;
- the greater of 20% of funds in the Investment Fund or $30 million to the Strategic Growth Council for allocation to metropolitan planning organizations for sustainable land use and transportation initiatives;
- the greater of 4.8% of funds in the Investment Fund or $12 million to the Air Resources Board (ARB) for goods movement efficiency measures;
- the greater of 2% of funds in the Investment Fund or $5 million to ARB for its existing Lower-Emission School Bus Program;
- the greater of 12% of funds in the Investment Fund or $30 million to ARB for its Clean Vehicle Rebate Project, subject to limitations.

Additionally, the bill would require agencies receiving these appropriations to submit quarterly reports to the Legislature that provide information about each project or activity for which funds were expended.

SUMMARY OF SUPPORTING ARGUMENTS FOR RECOMMENDATION:

Commission staff generally supports efforts to provide additional funding for programs that will achieve greenhouse gas reductions at reasonable cost while also addressing other important policy objectives, including providing benefits to adversely impacted and disadvantaged communities. However, staff cautions that it is preferable for funding levels to be established based on an analysis of demonstrated need and GHG-reduction potential, and for implementing agencies to be given appropriate discretion to allocate funds in support of policy objectives defined by the legislature in order to prevent overlap or duplication of effort.

SUMMARY OF SUGGESTED AMENDMENTS:

<u>Proposed Section 16442 should be amended as follows:</u>

The budget the bill creates to support specified programs is limited to the lesser of 50% of the monies flowing into the Air Pollution Control fund or $250 million in the 2012-2013 fiscal year resulting from the sale of unallocated emission allowances by the Air Resources Board at auction under the cap and trade regime. The appropriation of funds should be extended for multiple years (e.g., a minimum of 3 years) to enable identified programs to be funded for a reasonable time horizon and spread the significant administrative costs that may be incurred in implementing the bill to be amortized over a reasonable time frame. This would also mitigate the harmful effects of “start-stop” impacts on the marketplace by ensuring that programs funded by the bill last for a minimum number of years. The one-year budgetary authority in the bill as drafted would appear to result in excessive administrative cost and unnecessary market disruptions.

<u>Proposed Sections 16443(a) and (b) – K-12 energy projects, and Public university projects should be amended as follows:</u>

The Collaboration for High Performance Schools (CHPS) should be referenced and utilized for energy efficiency upgrades for schools authorized in this bill.

In order to avoid duplication of programs overseen by the CPUC, the California Energy Commission should be required to coordinate with the CPUC on the loan and grant programs it would administer for K-12 schools. This is consistent with Public Resource Code Section 25943 et seq. (AB758, Skinner, 2009) which requires the CEC to develop and implement, in coordination with the CPUC and other agencies, a comprehensive energy retrofit program for all buildings in California.

<u>Proposed Section 16443(c) – Rapid transition assistance for industrial facilities – should be amended as follows:</u>

The language should be amended to clarify that the monies identified are for use by entities that are subject to a compliance obligation under cap and trade and are eligible for transition assistance pursuant to the ARB regulation. This appears more consistent with the apparent intent of 16443(c). However, the language as drafted may be construed to mean that participants could be any entity covered by the cap-and-trade program.

<u>Proposed Section 16443(e) – Energy in agriculture priority projects – should be amended as follows:</u>

The bill incorrectly states that the Agricultural Industry Energy Program is established pursuant to Section 25650 of the Public Utilities Code. This program is established in Section 25650 of the Public <u>*Resource*</u> Code. Furthermore, The Agricultural Industry Energy Program is not currently being implemented. If there is interest in reviving that program, or in using that program as a vehicle for addressing greenhouse gas emission reductions in the agriculture sector, the bill should be revised to clarify that intent.

In order to avoid duplicative program overseen by the CPUC, the California Energy Commission should be required to coordinate with the CPUC on the Agriculture Industry Energy Program loan it administers.

<u>Proposed Section 16443(c) – Self-Generation Incentive Program – should be amended as follows:</u>

To the degree the intent of the bill is to provide additional money into SGIP recognizing that AB32 may create additional demands on the program, particularly from industrial entities regulated under the cap and trade, the bill may need to modify section 379.6 to ensure that the current statutory cap on SGIP collections does not impede the ability of the CPUC to fulfill this objective.

Proposed Section 16444(a)(2) – Reporting requirements – should be amended as follows:

The bill would establish quarterly reporting requirements for the agencies administering the funds and programs identified. This adds significantly to administrative costs without improving program efficiency. Reporting requirements should be amended such that any reporting is done on an annual basis and/or incorporated into existing reporting requirements to which an implementing agency may already be subject.

DIVISION ANALYSIS (Energy Division):

Proposed Sections 16443(a) and (b) – K-12 energy projects, Public university projects

Under existing law (PUC Sec. 454.5(b)(9)(C)), the CPUC must require the IOUs to procure all available energy efficiency that is cost-effective, reliable and feasible. The law (Sec. 454.55 and 454.56) also requires the CPUC to set targets for the IOUs to achieve all cost-effective electricity and natural gas energy efficiency. Accordingly, the CPUC authorizes the IOUs to administer energy efficiency programs that meet or exceed goals for all-cost effective energy efficiency. The IOUs' energy efficiency portfolios target energy efficiency opportunities through programs in all sectors of the economy, including programs specifically targeted at K-12 schools and public universities.

In the current 2010-2012 energy efficiency portfolios, the Commission directly funds $76 million in energy efficiency funds allocated specifically to schools and universities ($34M million of which is available for K-12 public schools)[1] In addition, the Commission has authorized $326 million in technical assistance, incentive, and loan programs available to *all* commercial customers, including schools and universities.

K-12 schools represent approximately 5-7% of total commercial sector energy use.[2] On a budgeted basis, programs specifically dedicated to schools and universities represent approximately 8% ($76M over 3 years) of the total budget allocated to the commercial sector ($943M). When including additional programs for which schools and universities are eligible to participate, the allocation climbs to 40% ($384M) of the total commercial sector budget. Thus, the budget allocations are commensurate to the size of the schools and universities sectors as a percent of total commercial energy consumption.

[1] Via Resolution E-4474 the CPUC approved SCE's request to increase funding of the Public Schools Program from $6.8 million to $24.7 million due to an unexpected rise in customer demand amongst this market segment. Their program had been highly successful in enrolling schools and completing installations, and several dozen additional school districts were interested in participating.
[2] Source: 2006 Commercial End-Use Survey

In its Energy Efficiency Strategic Plan,[3] the CPUC established deep energy retrofit goals, including a goal to achieve zero net energy (ZNE) targets in 50% of existing commercial buildings by 2030. Further, under AB 758 (Skinner 2009), the CEC is developing a program, in collaboration with CPUC, to retrofit all buildings in California that do not meet current Title 24 building efficiency standards. According to a recent CPUC consultant study, in order to achieve a 25% reduction in energy use (a rough estimate of what would be required to meet Strategic Plan goals), K-12 schools in California need to invest roughly $1-1.5B in energy efficiency.[4] If California schools are to reach these levels of energy efficiency investment, new funding sources and programs designed to meet the specific needs of schools and universities will be necessary.

While public K-12 schools and universities are currently participating in IOU energy efficiency programs at rates (6-8%) roughly proportionate to their share of commercial sector energy consumption (5-7%), there are limits to the funding levels IOUs programs can provide within overall portfolio cost effectiveness constraints. There is evidence that some existing grant programs, for example SCE's third-party program for public schools have been very successful – expenditures and commitments are at 200% of budgeted - requiring new monies to be shifted into the program. Conversely, participation in PG&E's schools program is only at 27% of budgeted. Twenty-seven percent of PG&E's on-bill financing program has been committed or spent on schools, compared to only 4% of SCE's. So, the picture is mixed. In sum, there is evidence to suggest that a dedicated statewide strategy for schools, including grants and loan programs as suggested in this bill, is warranted.

This bill would increase funding for energy efficiency in public K-12 schools, schools receiving reduced lunch programs, and public universities, by establishing new programs whose objective is "to achieve greenhouse gas reductions at reasonable cost." The additional funding and programs offered in this bill could help accelerate the uptake of schools energy efficiency projects, especially expensive deep retrofit projects with long paybacks. (Schools projects have particularly long paybacks to reduced hours of operation during the summer.) Additionally, the bill gives the CEC funds which could be used to simultaneously implement schools / universities elements of the AB 758 comprehensive retrofit program they are developing. AB 758 required that the CEC initially fund that program through American Recovery and Reinvestment Act (ARRA) funds, which mostly expired in April 2012. To the extent that CEC determines that energy efficiency grant and loans programs for schools and universities should be components of the AB 758 program, this bill could potentially inject needed funds to support those activities.

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[3] Available at http://www.cpuc.ca.gov/NR/rdonlyres/A54B59C2-D571-440D-9477-3363726F573A/0/CAEnergyEfficiencyStrategicPlan_Jan2011.pdf

[4] Harcourt Brown and Carey. *Energy Efficiency Financing in California: Needs and Gaps.* Prepared for the California Public Utilities Commission. July 2011. http://www.cpuc.ca.gov/NR/rdonlyres/9A7637A9-BE7E-4762-B48F-93530D11DF8D/0/EEFinanceReport_final.pdf

Therefore, the Energy Division supports this provision of the bill with one amendment. Because of the potential for duplication of program activity between CPUC and CEC administered programs, the CEC should be required to coordinate with the CPUC on its K-12 schools and universities programs. This is consistent with AB 758 which requires the CEC to develop and implement, in coordination with the CPUC and other agencies.

Proposed Section 16443(c) – Rapid transition assistance for industrial facilities

The Self-Generation Incentive Program (SGIP) gives incentives to participating IOU-customers in order to encourage the deployment of clean distributed generation (DG) technologies that have been determined to achieve reductions in GHG emissions and that meet all or a portion of the energy needs of a facility. The program is administered by Pacific Gas and Electric (PG&E), Southern California Edison (SCE), the Southern California Gas Company (SoCalGas) and the California Center for Sustainable Energy (CCSE) in San Diego Gas and Electric's (SDG&E) territory.

Covered entities subject to the requirements under the cap-and-trade program are currently eligible to participate in SGIP. Because the cap-and-trade program may result in increased SGIP participation from large industrial facilities, the additional funding appropriated by this bill will help ensure that available funding remains for small to medium sized commercial and residential customers that are not subject to the cap-and-trade surrender requirements. Currently the level of SGIP collections is capped pursuant to statute, specifically public utilities code section 379.6.

To enact this bill the Commission will need to modify the SGIP annual budgets for 2012, 2013, and 2014 set forth in Decision (D.) 11-12-030. Because the additional incentives apply only to covered entities subject to cap-and-trade requirements, the bill may also require modifications to D.11-09-015, which modified SGIP to comply with PU Code 379.6(b) (Senate Bill (SB) 412, Kehoe, 2009). Specifically, the Commission will need to consider the impacts of this additional funding on administrative costs, measurement and evaluation, and if additional funding would necessitate changes to the SGIP incentive structure.

Proposed Section 16443(d) – Residential energy efficiency

The weatherization activities referred to in this section do not refer to or impact the IOU-administered and CPUC-directed Energy Savings Assistance Program (ESAP). Using cap-and-trade allowance revenue to support the Department of Community Services and Development's (CSD) Weatherization Assistance Program is reasonable.

Proposed Section 16443(e) – Energy in agriculture priority projects

The CEC's Agriculture Industry Energy Program was established to provide loans "for the purchase of equipment and services for agriculture energy efficiency and development demonstration projects, including, but not limited to, production of methane or ethanol, use of wind, photovoltaics, and other sources of energy for irrigation pumping, application of load management conservation techniques, improvements in water pumping and pressurization techniques, and conservation tillage techniques." [Public Resources Code 25650(b).[5]

Under the program, qualifying projects were required to have at most a seven-year payback. However, the loan program has been inactive since 2008, and it is CPUC Staff's understanding that the program, as previously designed, created insurmountable barriers to program participants, and funds were never fully expended.

Since the loan program is inactive and it previously concerned the adoption of specific emerging technologies, the program would have to be reinstituted and revised to address the scope of projects made eligible by the bill. This could require significant administrative burdens for a relatively small program budget ($4 million minimum). The language of the bill describing the type of eligible projects is in the conjunctive, which implies that all of the criteria must be met, including water savings. This suggests that this subsection is at least in part directed toward projects that address the water/energy nexus and could be used to achieve the greenhouse gas emission reduction goal for water/energy in the AB 32 scoping plan. If the program is revived and revised it could provide funding opportunities that are not currently available through the IOUs' energy efficiency or renewables programs overseen by the CPUC, including to participants who are not IOU customers.

Proposed Section 16443(i) – Lower-Emission School Bus Program

This section does not impact any existing CPUC programs, and it is reasonable to provide supplemental funding to ARB's existing Lower-Emission School Bus Program.

Proposed Section 16433(j) – Clean Vehicle Rebate Project

This section does not impact any existing CPUC programs, and it is reasonable to provide funding dedicated to lower-income households.

PROGRAM BACKGROUND:

Energy Efficiency Programs for Educational Institutions

The California Public Utilities Commission currently oversees energy efficiency funds for Investor Owned Utility programs that target schools and universities. In Decision (D.) 09-09-047, energy efficiency program funding cycle (2010-2012), the California Public Utilities Commission approved approximately $58 million in third party energy efficiency programs specifically for schools and universities,$34 million of which is available to

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[5] According to the CEC's loan packet for 2007-2008, loans are only available for the installation of certain emerging technologies that have passed through the Public Interest Energy Research (PIER) program: thermal heat pumps, electrodialysis membrane systems, enterprise energy management systems, heating and cooling topping cycle systems, ultra-low NOx controlled energy efficient burners, solar photovoltaic (PV) and solar thermal systems, and utilization of food and animal waste for bio-energy generation.

public K-12 schools, and $42 million of which is available for universities, colleges, and private schools. In addition to these funds, schools can also access three of the IOU commercial statewide programs: (1) an audit and technical assistance program, funded at $34 million, (2) a calculated incentive program which provides an estimated $149 million in rebates for comprehensive retrofits, and (2) deemed incentive program which provides an estimated $143 million in measure-specific rebates for energy efficiency upgrades.

To date, Public K-12 Schools are utilizing energy efficiency funds and completing projects, in IOU core and third party programs. As of June 2012, the PG&E and SCE have collectively expended $25 million dollars on K-12 schools, with and additional $14 million dollars committed.[6] Earmarking additional funds for energy efficiency certainly has potential to increase savings in this market segment, and reduce operating costs.

In recognition of the potential for additional energy efficiency savings in schools, on May 10, 2012, the CPUC passed Decision (D.)12-05-015, which provided guidance for the 2013-2014 IOU Energy Efficiency Programs. In D.12-05-015, the IOUs were directed to include programs that cater to the “MUSH” market (municipalities, universities, colleges, schools, and hospitals), as these were identified as a focal point to test ideas for deep energy retrofits in the 2013-2014 transition period. The CPUC will release another decision in the fall of 2012, inclusive of stakeholder input, to approve funding for the 2013-2014 IOU energy efficiency programs. The Commission will approve the IOU 2013-2014 energy efficiency programs in accordance with the guidance provided in Decision (D.) 12-05-015, including the guidance targeting the MUSH market, which includes universities and schools as specified in the bill.

Self-Generation Incentive Program

The Self-Generation Incentive Program provides incentives to technologies that have been determined to achieve reductions in GHG emissions, including: wind turbines, fuel cells, gas turbines, micro-turbines and internal combustion engines, waste heat capture, small conduit hydro, combined heat and power, advanced energy storage, and pressure reduction turbines

The SGIP was initially conceived of as a peak-load reduction program in response to the energy crisis of 2001. Assembly Bill 970 (Ducheny, 2000) designed the Program as a complement to the California Energy Commissions’ Emerging Renewables Program, which focused on smaller systems than the SGIP. Since 2001, the SGIP has evolved significantly. It no longer supports solar photovoltaic technologies, which were moved under the purview of the California Solar Initiative after its launch in 2006. It has also been modified to include energy storage technologies, to support larger projects, and to provide an additional 20% bonus for California-supplied products.

Senate Bill 412 (Kehoe, 2009) modified the focus on the Program to include greenhouse gas reductions. Specifically, this bill directed the Commission, in

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[6] As of the date of this DA, SCG and SDG&E have not responded to Energy Division’s data request.

consultation with the Air Resources Board, to identify distributed energy resources which will contribute to greenhouse gas reduction goals and to set appropriate incentive levels to encourage their adoption. The Commission took this opportunity to expand the portfolio of eligible technologies, modify the incentive approach, and to enact other operational requirements including warrantees and performance monitoring to ensure greenhouse gas reductions.

The budget for the SGIP program is currently capped at $83 million by statute pursuant to PU Code Section 379.6.(a)(2). Given existing demands on the program, additional budget for the program may be desirable however existing statutory authority limits the ability of the Commission to do so using ratepayer monies.

LEGISLATIVE HISTORY:

AB 32 (Nunez, Ch. 448, Stats. 2006) enacted the Global Warming Act of 2006 (Act), which created a statewide greenhouse gas (GHG) emission limit that would reduce emissions by 25% by 2020.

FISCAL IMPACT:

The total fiscal impact of the bill would be $97,301 annually. This impact reflects the cost of one new PURA III position to implement the bill's provisions.

STATUS:

SB 1572 is pending hearing in the Assembly Appropriations Committee.

SUPPORT/OPPOSITION:

Support:
American Lung Association
California Energy Efficiency Industry Council
Coalition for Adequate School Housing
County School Facilities Consortium
Santa Clara County Open Space Authority
School Energy Coalition
University of California

Opposition:
American Council of Engineering Companies
California Asian Pacific Chamber of Commerce
California Business Properties Association
California Chamber of Commerce
California Chapter of the American Fence Association
California Fence Contractors Association
California Grocers Association
California Independent Oil Marketers Association
California League of Food Processors
California Manufacturers & Technology Association

California Metals Coalition
California Retailers Association
California Taxpayers Association
Can Manufacturers Institute
Chemical Industry Council of California
Engineering Contractors' Association
Flasher/Barricade Association
Golden State Builders Exchanges
Marin Builders' Association
National Federation of Independent Business
United Contractors

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BILL LANGUAGE:

BILL NUMBER: SB 1572 AMENDED
BILL TEXT

AMENDED IN ASSEMBLY JUNE 25, 2012
AMENDED IN SENATE MAY 29, 2012
AMENDED IN SENATE MAY 1, 2012

INTRODUCED BY Senator Pavley

FEBRUARY 24, 2012

An act to add ~~Section 38575 to the Health and Safety Code~~ *Article 2 (commencing with Section 16440) to Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code* , relating to greenhouse gases.

LEGISLATIVE COUNSEL'S DIGEST

SB 1572, as amended, Pavley. California Global Warming Solutions Act of 2006: ~~Greenhouse Gas Reduction Account.~~ *AB 32 Investment Fund.*

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. The *act requires the* state board ~~is required~~ to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum, technologically feasible, and cost-effective greenhouse gas emission reductions. The act authorizes the state board to include use of market-based compliance mechanisms. *The state board has adopted by regulation a program pursuant to the act to cap greenhouse gas emissions and provide for market-based compliance mechanisms, including the auction of allowances (cap-and-trade program).* The act authorizes the state board to adopt a schedule of fees to be paid by the sources of greenhouse gas emissions regulated pursuant to the act, and requires the revenues collected pursuant to that fee schedule be deposited into the Air Pollution Control Fund and be available, upon appropriation by the Legislature, for the purposes of carrying out the act.

~~This bill would create the Greenhouse Gas Reduction Fund. The bill would require moneys, as specified, collected pursuant to a market-based compliance mechanism to be deposited in this fund. The bill also would require those moneys, upon appropriation by the Legislature, be used for purposes of carrying out the act.~~

This bill, with certain exceptions, would require revenues collected by the state board and derived from the auction or sale of allowances to be deposited in the Greenhouse Gas Reduction Account which the bill would establish. Under the bill, a specified portion of the money in the fund would be available, subject to appropriation *by the Legislature, to administering agencies to fund prescribed projects that meet certain goals relating to greenhouse gas emissions reductions. The bill would require administering agencies to prepare and submit to the Legislature quarterly reports on funded projects and activities. The bill would require the state board to publish information on projects on its Internet Web site.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. The Legislature finds and declares the following:

(a) In accordance with its discretionary authority to adopt market-based compliance mechanisms pursuant to Part 5 (commencing with Section 38570) of Division 25.5 of the Health and Safety Code, the State Air Resources Board adopted on December 22, 2011, a final regulation order establishing the cap-and-trade program, which took effect on January 1, 2012.

(b) California's cap-and-trade program is authorized by the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(c) To mitigate the risk of market manipulation and windfall profits and to ensure the market price of a greenhouse gas emissions allowance is transparent and publicly discoverable, the State Air Resources Board will auction a limited number of allowances to qualifying market participants, though the majority of allowances will be freely allocated to covered entities.

(d) If the cap-and-trade regulation remains substantially unchanged, the State Air Resources Board will auction greenhouse gas emissions allowances beginning on November 14, 2012.

(e) Proceeds from the auction of allowances must be spent to further purposes of the California Global Warming Solutions Act of 2006, including the reduction of statewide greenhouse gas emissions to 1990 levels by 2020, and the maintenance of those levels beyond 2020.

(f) To further the purposes of the California Global Warming Solutions Act of 2006, and in light of current budgetary pressures facing families, small businesses, particularly those in disadvantaged communities, energy-intensive trade-exposed industries, as well as local and regional governmental entities throughout California, it is necessary and appropriate to immediately allocate a portion of auction proceeds anticipated to be generated in the 2012-13 fiscal year, excluding those allowances consigned to auction by investor-owned utilities, to be used to expeditiously alleviate budgetary pressure, create jobs in the near term, utilize existing programs with a proven track record of transparently and efficiently expending public funds to reduce greenhouse gas emissions and accelerate the achievement of the goals of the California Global Warming Solutions Act of 2006 in a manner that has a sustained positive impact on the state's fiscal health and economic leadership in global clean technology markets.

SEC. 2. Article 2 (commencing with Section 16440) is added to Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code , to read:

Article 2. AB 32 Investment Fund

16440. As used in this article:

(a) "Act" means the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code).

(b) "Cap-and-trade program" means any program adopted by regulation of the State Air Resources Board pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code to cap greenhouse gas emissions and provide for market-based compliance mechanisms.

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

(d) "Fund" means the Greenhouse Gas Reduction Account established in Section 16441.

(e) "State board" means the State Air Resources Board.

16441. (a) The Greenhouse Gas Reduction Account is hereby established as a special fund in the State Treasury.

(b) All revenues collected by the state board and derived from any auction or sale of allowances pursuant to a market-based compliance mechanism authorized by the act and established by regulations adopted by the state board, excluding fines, penalties, or moneys collected from the auction or sale of allowances consigned to the state board by investor-owned utilities, shall be deposited in the fund and shall be available, upon appropriation by the Legislature, for the purposes of this article.

16442. (a) (1) Notwithstanding any other law, one-half of the revenues collected in the 2012-13 fiscal year, or two hundred fifty million dollars ($250,000,000), whichever amount is less, from the auction or sale of greenhouse gas emissions allowances, that are not allocated or otherwise used by the Director of Finance to make commensurate reductions to General Fund expenditure authority, as authorized by Section 15.11 of the Budget Act of 2012, shall be available, upon appropriation by the Legislature, to be expended for priority projects in accordance with this article.

(2) All funds appropriated by the Legislature that are not allocated by the administering agency by the end of the 2012-13 fiscal year shall revert back to the fund to be expended according to a long-term expenditure plan, in accordance with subsequent legislation.

(3) If revenues of less than five hundred fifty million dollars ($550,000,000) are derived from the auction or sale of greenhouse gas emissions allowances in the 2012-13 fiscal year, excluding those allowances consigned by investor-owned utilities to the state board, no money shall be expended in accordance with this article.

(b) Priority projects funded in accordance with Section 16443 shall comply with the following:

(1) Achieve greenhouse gas emissions reductions at a reasonable cost.

(2) Rapidly achieve budgetary savings for families, small businesses, schools, universities, companies regulated under the cap-and-trade program, community institutions, and state, local, and regional governments.

(3) Advance the purposes of the cap-and-trade program, in particular the purpose of the auction to reduce the risk of market

manipulation and windfall profits.

(4) Protect existing jobs in the state by minimizing leakage, as defined in Section 38505 of the Health and Safety Code.

(5) Benefit the most adversely impacted and disadvantaged communities to the maximum extent feasible.

(6) Provide opportunities, where appropriate, for small businesses, schools, local governments, not-for-profit entities, state and local certified conservation corps, state conservancies, and other community institutions to participate in and benefit from statewide and regional efforts to reduce greenhouse gas emissions.

16443. The following are priority projects:

(a) K-12 energy projects:

(1) The greater of 35.6 percent of funds deposited in the fund in the 2012-13 fiscal year, or eighty-nine million dollars ($89,000,000), shall be deposited in the Public School Energy Savings Account, which is hereby established as a subaccount within the Energy Conservation Assistance Account. The funds in the Public School Energy Savings Account shall be available to the Energy Commission for allocation to qualified projects at public schools for kindergarten and grades 1 to 12, inclusive, in accordance with the Energy Conservation Assistance Act of 1979 (Chapter 5.2 (commencing with Section 25410) of Division 15 of the Public Resources Code), as follows:

(A) Of the funds deposited in the Public Schools Energy Savings Account, 56.25 percent shall be available as loans pursuant to existing guidelines and regulations established by the Energy Commission, with the following exceptions:

(i) Loans shall have a 2 percent interest rate and a 20-year term.

(ii) Only public schools will be eligible for loans from the Public Schools Energy Savings Account.

(B) Of the funds deposited in the Public Schools Energy Savings Account, 18.75 percent shall be available as loans pursuant to existing guidelines and regulations established by the Energy Commission, with the following exceptions:

(i) Loans shall have a 1 percent interest rate and a 20-year term.

(ii) Only public schools with 35 percent or greater proportion of students with free and reduced lunches shall be eligible for these loans.

(C) Of the funds deposited in the Public Schools Energy Savings Account, 25 percent shall be available as grants to qualifying public schools, using an existing program within the jurisdiction of the Energy Commission, including, but not limited to, the Bright Schools Program, or in collaboration with the Office of Public School Construction, through either the new construction or modernization programs of the School Facility Program implemented pursuant to regulation, if the Energy Commission determines that adequate energy audit, measurement, and verification procedures are employed to ensure greenhouse gas emission reductions occur in compliance with the act.

(b) Public university projects:

(1) Of funds deposited in the fund in the 2012-13 fiscal year, 8 percent, or twenty million dollars ($20,000,000), whichever amount is greater, shall be deposited in the Higher Education Climate Solutions Fund, which is hereby established as a subaccount of the fund, to be available for allocation to public university governing

boards for projects and activities that are determined, based on the best available evidence, to reduce greenhouse gas emissions associated with public universities that are covered entities for purposes of any cap-and-trade program, including, but not limited to, the following projects and activities:

(A) Energy efficiency upgrades that reduce electricity and natural gas consumption at university-controlled facilities.

(B) Procurement of biomethane or biogas that displaces natural gas usage at university facilities.

(C) Procurement of carbon-neutral electricity that displaces conventional electricity generation at university facilities.

(D) Administrative costs to directly support any of the activities listed in subparagraphs (A), (B), and (C), not in excess of 1 percent of total funds deposited in the Higher Education Climate Solutions Fund.

(2) In order to be eligible for funds from the Higher Education Climate Solutions Fund, a public university applying for funds shall do the following:

(A) Agree to make an additional investment in greenhouse gas abatement projects and activities, equal in value to 25 percent of the funds it receives.

(B) Submit to the Legislature a five-year investment plan detailing the projects and activities to be funded with an anticipated allocation.

(3) At the end of the calendar year, each public university that receives funding from the Higher Education Climate Solutions Fund shall submit a report to the Legislature describing the disposition of funds received in the previous calendar year and the planned expenditures for allowance revenue in the coming calendar year.

(c) Rapid transition assistance for industrial facilities:

Of funds deposited in the fund in the 2012-13 fiscal year, 12 percent, or thirty million dollars ($30,000,000), whichever amount is greater, shall be available for appropriation to the Public Utilities Commission to carry out the self-generation incentive program in accordance with Section 379.6 of the Public Utilities Code, subject to the following limitations:

(1) Incentives shall only be available to covered entities subject to allowance surrender requirements under any cap-and-trade program, excluding electrical corporations that receive all of their allowances for free, and including, but not limited to, food processors, manufacturers of glass, cement, and other industrial products, oil and gas production facilities and refineries, and thermal energy suppliers.

(2) The Public Utilities Commission shall not award incentives under the self-generation incentive program funded pursuant to this article for emissions reduction measures that are otherwise specifically required by statute, regulation, or court order.

(d) Residential energy efficiency:

(1) Of funds deposited in the fund in the 2012-13 fiscal year, 4 percent, or ten million dollars ($10,000,000), whichever amount is greater, shall be available for appropriation to the Department of Community Services and Development for expenditure pursuant to the Weatherization Assistance Program administered by that department.

(2) The Department of Community Services and Development shall expend at least 50 percent of the funds it receives pursuant to this section for eligible energy efficiency improvements within multifamily rental housing developments subject to affordability

restrictions meeting the Department of Housing and Community Developments standards with remaining terms of at least 10 years.

(e) Energy in agriculture priority projects:

Of funds deposited in the fund in the 2012-13 fiscal year, 1.6 percent, or four million dollars ($4,000,000), whichever amount is greater, shall be available for appropriation to the Energy Commission for expenditure in accordance with the Agricultural Industry Energy Program established pursuant to Section 25650 of the Public Utilities Code, for projects that meet the criteria established for that program. Projects may include the adoption of renewable energy and energy-efficient technologies and management practices that reduce greenhouse gas emissions, energy and water use, production costs, and minimize negative environmental impacts while improving economic sustainability.

(f) Sustainable land use and transportation:

(1) Of funds deposited in the fund in the 2012-13 fiscal year, 20 percent, or thirty million dollars ($30,000,000), whichever amount is greater, shall be available for appropriation to the Strategic Growth Council established in Section 75121 of the Public Resources Code, for allocation to metropolitan planning organizations, or, within the Southern California Association of Governments region, to a county transportation commission, or to other local governmental entities in regions not within a metropolitan planning organization, that further the purposes of Chapter 728 of the Statutes of 2008 or Chapter 729 of the Statutes of 2008, the California Regional Blueprint Planning Program, or other regional planning processes.

(A) Project funding determinations shall be made at the regional level in accordance with statewide criteria developed by the Strategic Growth Council that prioritize investments in projects that do the following:

(i) Cost-effectively reduce greenhouse gas emissions and provide other cobenefits as defined by the act.

(ii) Integrate transportation, land use, and water and other resource conservation strategies.

(iii) Occur in regions with sustainable community strategies that meet greenhouse gas emission reduction targets, or in other regions, for equivalent blueprint plans or other regional plans.

(B) Funds allocated by the Strategic Growth Council may be used for integrated infrastructure development, design, construction, or planning, including modeling and verification systems that impose greenhouse gas emission reduction performance measurement tools for local and regional actions, and operation and maintenance of transportation infrastructure, provided that the integrated infrastructure development, design, construction, or planning or operation and maintenance measures are part of a comprehensive regional or local plan that directly results in overall greenhouse gas emission reduction and provisions of cobenefits as defined by the act. Projects shall be selected based on the net greenhouse gas emissions reductions and cobenefits provided per dollar invested.

(C) Of funds made available to the Strategic Growth Council pursuant to this subdivision, 40 percent shall be available to the Department of Housing and Community Development to be expended for loans consistent with subdivision (b) of Section 53562 of the Health and Safety Code.

(i) These funds shall finance only housing units that will be available at an affordable rent to persons of very low or low income for at least 55 years, although these units may be located in either

all-affordable or mixed-income developments.

(ii) The Department of Housing and Community Development shall not use project size as a scoring criterion but shall use density as a scoring criterion.

(iii) The Department of Housing and Community Development shall further give priority to developments that achieve additional greenhouse gas emission reductions or energy conservation through onsite renewable energy, discount transit passes, car sharing, or other features.

(iv) Funds expended shall be coordinated with and complement, and are encouraged to be combined with, funds expended by the Strategic Growth Council pursuant to subdivision (f).

(h) Goods movement:

Of funds deposited in the fund in the 2012-13 fiscal year, 4.8 percent, or twelve million dollars ($12,000,000), whichever amount is greater, shall be available for appropriation to the state board to be expended in a manner consistent with Section 39625.5 of the Health and Safety Code. Funds expended pursuant to this section shall be consistent with the goods movement efficiency measures included in the Climate Change Scoping Plan adopted by the state board pursuant to the act.

(i) Lower-Emission School Bus Program:

Of funds deposited in the fund in the 2012-13 fiscal year, 2 percent, or five million dollars ($5,000,000), whichever amount is greater, shall be available for appropriation to the state board to fund qualifying applications for incentives through its Lower-Emission School Bus Program.

(j) Clean Vehicle Rebate Project:

Of the funds deposited in the fund in the 2012-13 fiscal year, 12 percent, or thirty million dollars ($30,000,000), whichever is greater, shall be available for appropriation to the state board to implement its Clean Vehicle Rebate Project, subject to the following limitations:

(1) Rebates shall only be available for appropriation to households with a combined gross annual income of less than eighty thousand dollars ($80,000) per year.

(2) Only one rebate shall be available per qualifying household.

16444. (a) To ensure funds are expended efficiently, transparently, and in a manner that reduces greenhouse gas emissions, administering agencies and recipients of funds pursuant to this article shall comply with the following requirements:

(1) An agency shall not award funds pursuant to this article unless it finds, based on available evidence, that the project or activity to be funded reduces greenhouse gas emissions in furtherance of the act.

(2) An agency subject to the requirements of this article shall prepare and submit to the Legislature quarterly reports that include, but are not limited to, a detailed list of projects and activities for which funds were expended or obligated, including, but not limited to, the following information for each project or activity:

(A) The name of the project or activity.

(B) A description of the project or activity.

(C) An evaluation of the completion status.

(b) The state board shall publish on its Internet Web site information on projects funded pursuant to this article, including the status, costs, benefits, location, and other information relating to a project in a manner that is easily accessible and

comprehensible to the public, in order to understand the effects the funded projects are having on California's environment and economy.

(c) (1) The report to be submitted pursuant to paragraph (2) of subdivision (a) shall be submitted in compliance with Section 9795.

(2) The requirement for submitting a report imposed under paragraph (2) of subdivision (a) is inoperative on January 1, 2017, pursuant to Section 10231.5.

16445. The provisions of this article are severable. If any provision of this article or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~SECTION 1. The Legislature finds and declares all of the following:~~

~~(a) In accordance with its discretionary authority to adopt market-based compliance mechanisms pursuant to Part 5 (commencing with Section 38570) of Division 25.5 of the Health and Safety Code, the State Air Resources Board adopted on December 22, 2011, a final regulation order establishing the cap-and-trade program, which took effect on January 1, 2012.~~

~~(b) California's cap-and-trade program is authorized by the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), and the funds generated by the program are regulatory fees, the use of which is required to conform with Sinclair Paint Co. v. State Bd. of Equalization (1997) 15 Cal.4th 866.~~

~~(c) Provided the cap-and-trade regulation remains substantially unchanged, the state board will auction greenhouse gas emissions allowances beginning in the 2012 calendar year.~~

~~(d) Pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code), proceeds from the auction of allowances will be deposited in the Air Pollution Control Fund, and will only be available, upon appropriation by the Legislature, for the purposes designated in the act.~~

~~(e) If the cap-and-trade regulation does not remain in effect, the state board may consider alternate rules or regulations that would be adopted pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500) of the Health and Safety Code) in an open public process to ensure that statewide greenhouse gas emissions are reduced to 1990 levels by 2020.~~

~~SEC. 2. Section 38575 is added to the Health and Safety Code, to read:~~

~~38575. (a) The Greenhouse Gas Reduction Fund is hereby created.~~

~~(b) Notwithstanding Section 38597, all moneys collected pursuant to this part, excluding penalties and fines, shall be deposited in the Greenhouse Gas Reduction Fund and shall be available, upon appropriation by the Legislature, for purposes of carrying out this division.~~