

## Senate Bill No. 1128

### CHAPTER 677

An act to amend Sections 26001, 26002, 26008, 26009, 26011, 26014, 26015, 26017, 26022, 26023, 26024, 26025, 26030, 26033, 26034, and 26035 of, to amend, repeal, and add Sections 26003 and 26011.8 of, to add Chapter 4 (commencing with Section 26050) to Division 16 of, to repeal Sections 26001.5, 26011.5, 26011.6, 26012, 26013, 26016, 26016.5, 26020, 26021, 26026, 26027, and 26081 of, and to repeal Division 16.2 (commencing with Section 26100) of, the Public Resources Code, and to amend, repeal, and add Section 6010.8 of the Revenue and Taxation Code, relating to energy.

[Approved by Governor September 27, 2012. Filed with  
Secretary of State September 27, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 1128, Padilla. Energy: alternative energy financing.

Existing law establishes the California Alternative Energy and Advanced Transportation Financing Authority and requires the authority to establish programs to provide financial assistance to participating parties for projects related to alternative energy sources and advanced transportation projects. Existing law authorizes the authority to issue revenue bonds or other securities of up to \$1 billion in total outstanding debt as a financing mechanism for providing financial assistance to those projects.

This bill would revise and recast those provisions to, among other things, require the authority to establish programs providing financial assistance to projects for renewable energy generation facilities, combined heat and power systems, facilities designed for the production of renewable fuels, distributed generation and energy storage technologies eligible under the self-generation incentive program as determined by the Public Utilities Commission, and energy efficiency devices and technologies. The bill would eliminate the \$1 billion limitation on the amount of outstanding indebtedness the authority may incur to provide the financial assistance.

Existing law authorizes the authority, until January 1, 2021, to provide financial assistance in the form of a sales and use tax exclusion for a project to promote California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or the reduction in air and water pollution or energy consumption. Existing law requires the authority, once the sales and use tax exemptions for projects exceed \$100,000,000 for a given year, to provide the Legislature with a 20-day notice prior to granting additional sales and use tax exemptions. The sales and use tax exemption applies to the transfer of title of tangible personal property constituting a project to the authority by a participating party, or a lease or transfer of title of tangible

personal property constituting a project by the authority to a participating party.

This bill would additionally authorize the authority, until July 1, 2016, to grant the above financial assistance to projects that promote the utilization of advanced manufacturing, as defined. The bill would require the authority, until July 1, 2016, to study the efficacy and cost benefit of the sales and use tax exemption for advanced manufacturing projects. The bill would require the authority, before January 1, 2017, to submit to the Legislature a report on the study. The bill would require the authority, before January 1, 2015, to submit to the Legislature an interim report on the efficacy of granting the sales and use tax exemption for projects, and recommendations on changes that would increase the efficacy in creating jobs and whether the exemption should be expanded or narrowed. The bill would require the Governor's Office of Business and Economic Development to consult with the Legislative Analyst's Office, among others, to review and identify efficient and cost-effective methods for the state to create jobs in advanced manufacturing. The bill would require the Governor's Office of Business and Economic Development to report its findings to the Legislature by January 1, 2017. The bill would require the authority, until January 1, 2021, to work with the University of California or the California State University to perform a peer review of the net benefits test, as described, used to evaluate applicants applying for the sales and use tax exemption, as specified. The bill would instead prohibit the authority from granting, on an annual basis, a sales and use tax exemption for a project exceeding \$100,000,000. The bill would, instead, apply the sales and use tax exemption to the lease or transfer of title of tangible property constituting a project to any participating party.

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

SECTION 1. (a) The Governor's Office of Business and Economic Development, established pursuant to Section 12096.2 of the Government Code, shall review and identify efficient and cost-effective methods for the state to create jobs in advanced manufacturing. In undertaking this review, the office shall consult with the Legislative Analyst's Office and engage other government and private sector stakeholders who have expertise in manufacturing, workforce development, education, and economic development. The Governor's Office of Business and Economic Development shall report its findings to the Legislature on or before January 1, 2017.

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

SEC. 2. Section 26001 of the Public Resources Code is amended to read: 26001. The Legislature hereby finds and declares both of the following:

(a) It is essential that the state, in cooperation with the federal government, use all practical and commercially feasible means to promote the prompt

and efficient development of energy sources which are renewable or which more efficiently utilize and conserve scarce energy resources.

(b) The promotion of sustainable and renewable energy sources, implementation of measures that increase the efficiency of the use of energy, and advanced transportation technologies that reduce the degradation of the environment and lessen the state's dependence of fossil fuels, and protect the health, welfare, and safety of the people of this state are in the public interest and serve a public purpose.

SEC. 3. Section 26001.5 of the Public Resources Code is repealed.

SEC. 4. Section 26002 of the Public Resources Code is amended to read:

26002. It is the purpose of this division to advance the state's goals of reducing the levels of greenhouse gas emissions, increasing the deployment of sustainable and renewable energy sources, implementing measures that increase the efficiency of the use of energy, creating high quality employment opportunities, and lessening the state's dependence on fossil fuels and to that end to provide an alternative method of financing in providing and promoting the establishment of both of the following:

(a) Facilities utilizing alternative methods and sources of energy.

(b) Facilities needed for the development and commercialization of advanced transportation technologies.

SEC. 5. Section 26003 of the Public Resources Code is amended to read:

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

(1) (A) "Advanced manufacturing" means manufacturing processes that improve existing, or create entirely new materials, products, and processes through the use of science, engineering, or information technologies, high-precision tools and methods, a high-performance workforce, and innovative business or organizational models utilizing any of the following technology areas:

(i) Micro- and nanoelectronics, including semiconductors.

(ii) Advanced materials.

(iii) Integrated computational materials engineering.

(iv) Nanotechnology.

(v) Additive manufacturing.

(vi) Industrial biotechnology.

(B) "Advanced manufacturing" includes all of the following:

(i) Systems that result from substantive advancement, whether incremental or breakthrough, beyond the current industry standard, in the production of materials and products. These advancements include improvements in manufacturing processes and systems that are often referred to as "smart" or "intelligent" manufacturing systems, which integrate computational predictability and operational efficiency.

(ii) (I) Sustainable manufacturing systems and manufacturing technologies that minimize the use of resources while maintaining or improving cost and performance.

(II) Sustainable manufacturing systems and manufacturing technologies do not include those required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of

understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority to ensure that the requirements of this clause are met.

(2) (A) “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 and greenhouse gas emissions reduction, and transportation efficiency.

(B) “Advanced transportation technologies” does not include those projects required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority regarding projects that are excluded pursuant to this subparagraph.

(3) (A) “Alternative sources” means devices or technologies used for a renewable electrical generation facility, as defined in paragraph (1) of subdivision (a) of Section 25741, a combined heat and power system, as defined in Section 2840.2 of the Public Utilities Code, distributed generation and energy storage technologies eligible under the self-generation incentive program pursuant to Section 379.6 of the Public Utilities Code, as determined by the Public Utilities Commission, or a facility designed for the production of renewable fuels, the efficient use of which reduce the use of fossil or nuclear fuels, and energy efficiency devices or technologies that reduce the need for new electric generation and reduce emissions of toxic and criteria pollutants and greenhouse gases.

(B) “Alternative sources” does not include a 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.

(4) “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.

(5) “Cost” as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, 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 a project.

(6) “Financial assistance” includes, but is not limited to, loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, bond insurance, loan guarantees or other credit enhancements or liquidity facilities, contributions of money, or a combination thereof, as determined by, and approved by the resolution of, the board.

(7) (A) “Participating party” means a person, federal or state agency, department, board, authority, or commission, state or community college, or university, or a city or county, regional agency, public district, school district, or other political entity engaged in the 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.

(B) For the purposes of Section 6010.8 of the Revenue and Taxation Code, “participating party” means an entity specified in subparagraph (A) that seeks financial assistance pursuant to Section 26011.8.

(8) (A) “Project” means a land, building, improvement to the land or building, 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 or alternative source components.

(B) “Project,” for the purposes of Section 26011.8 and Section 6010.8 of the Revenue and Taxation Code, means any tangible personal property that is utilized for the design, manufacture, production, or assembly of advanced manufacturing, advanced transportation technologies, or alternative source products, components, or systems.

(9) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or 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 money in any fund or account of the authority.

(b) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 6. Section 26003 is added to the Public Resources Code, to read:  
26003. (a) As used in this division, unless the context otherwise requires:

(1) (A) “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 and greenhouse gas emissions reduction, and transportation efficiency.

(B) “Advanced transportation technologies” does not include those projects required to be undertaken pursuant to state or federal law or regulations, air district rules or regulations, memoranda of understanding with a governmental entity, or legally binding agreements or documents. The State Air Resources Board shall advise the authority regarding projects that are excluded pursuant to this subparagraph.

(2) (A) “Alternative sources” means devices or technologies used for a renewable electrical generation facility, as defined in paragraph (1) of subdivision (a) of Section 25741, a combined heat and power system, as defined in Section 2840.2 of the Public Utilities Code, distributed generation and energy storage technologies eligible under the self-generation incentive program pursuant to Section 379.6 of the Public Utilities Code, as determined by the Public Utilities Commission, or a facility designed for the production of renewable fuels, the efficient use of which reduce the use of fossil or nuclear fuels, and energy efficiency devices or technologies that reduce the need for new electric generation and reduce emissions of toxic and criteria pollutants and greenhouse gases.

(B) “Alternative sources” does not include a 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.

(3) “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.

(4) “Cost” as applied to a project or portion of the project financed under this division means all or part of the cost of construction and acquisition of all lands, structures, real or personal property or an interest in the real or personal property, 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 a project.

(5) “Financial assistance” includes, but is not limited to, loans, loan loss reserves, interest rate reductions, proceeds of bonds issued by the authority, bond insurance, loan guarantees or other credit enhancements or liquidity

facilities, contributions of money, or a combination thereof, as determined by, and approved by the resolution of, the board.

(6) (A) “Participating party” means a person, federal or state agency, department, board, authority, or commission, state or community college, or university, or a city or county, regional agency, public district, school district, or other political entity engaged in the 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.

(B) For the purposes of Section 6010.8 of the Revenue and Taxation Code, “participating party” means an entity specified in subparagraph (A) that seeks financial assistance pursuant to Section 26011.8.

(7) (A) “Project” means a land, building, improvement to the land or building, 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 or alternative source components.

(B) “Project,” for the purposes of Section 26011.8 and Section 6010.8 of the Revenue and Taxation Code, means any tangible personal property that is utilized for the design, manufacture, production, or assembly of advanced transportation technologies or alternative source products, components, or systems.

(8) “Revenue” means all rents, receipts, purchase payments, loan repayments, and all other income or receipts derived by the authority from a project, or 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 money in any fund or account of the authority.

(b) This section shall become operative on July 1, 2016.

SEC. 7. Section 26008 of the Public Resources Code is amended to read:

26008. The authority may employ an executive director and any other persons as are necessary to enable it properly to perform the duties imposed upon it by this division. The executive director shall serve at the pleasure of the authority and shall receive such compensation as shall be fixed by the authority. The authority may, by resolution, delegate to its executive director, or any other employee of the authority, or the Treasurer’s designee any powers and duties that it may deem proper, including, but not limited to, the power to enter into contracts on behalf of the authority.

SEC. 8. Section 26009 of the Public Resources Code is amended to read:

26009. The authority may adopt, amend, or repeal all rules and regulations necessary to carry out this division as emergency regulations in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption, amendment, or repeal of the regulations is conclusively presumed to be necessary for the immediate

preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code.

SEC. 9. Section 26011 of the Public Resources Code is amended to read: 26011. The authority is authorized and empowered:

(a) To adopt an official seal.

(b) To sue and be sued in its own name.

(c) To issue bonds, notes, bond anticipation notes, and other obligations of the authority, including, at the option of the authority, obligations bearing interest that is taxable for purposes of federal income taxation, for any of its purposes and to fund or refund the same, all as provided in this division.

(d) To determine the location and character of a project to be financed under the provisions of this division, to provide financial assistance to a participating party, to enter into loan agreements with a participating party for the financing of a project including creating a lien or security interest in the property, to construct, reconstruct, renovate, replace, lease, as lessor or lessee, and regulate the same, and to enter into contracts for the sale of a project, including installment sales or sales under conditional sales contracts.

(e) To fix fees and charges for projects, and interest rates with respect to loans for projects or for loan of moneys to finance projects, and to revise from time to time the fees and charges and interest rates, and to collect rates, rents, fees, loan repayments, and charges for the use of, and for a facility or service furnished, or to be furnished, by a project or part of the project and to contract with a person, partnership, association, corporation, or public agency with respect to the project, and to fix the terms and conditions upon which a project may be sold or disposed of, whether upon installment sales contracts or otherwise.

(f) To employ and fix the compensation of bond counsel, financial consultants, and advisers as may be necessary in its judgment in connection with the issuance and sale of any bonds, notes, bond anticipation notes, or other obligations of the authority; to contract to advance the purposes of this division.

(g) To purchase, with proceeds of its bonds or its revenue, bonds issued by a public agency at a public or negotiated sale. Bonds purchased pursuant to this subdivision may be held by the authority or sold to public or private purchasers at public or negotiated sales, in whole or in part, separately or together with other bonds issued by the authority.

(h) To do all things generally necessary or convenient to carry out the purposes of this division.

SEC. 10. Section 26011.5 of the Public Resources Code is repealed.

SEC. 11. Section 26011.6 of the Public Resources Code is repealed.

SEC. 12. Section 26011.8 of the Public Resources Code is amended to read:

26011.8. (a) The purpose of this section is to promote the creation of California-based manufacturing, California-based jobs, advanced manufacturing, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. In furtherance of this purpose, the

authority may approve a project for financial assistance in the form of the sales and use tax exclusion established in Section 6010.8 of the Revenue and Taxation Code.

(b) For purposes of this section, “project” means a project as defined in subparagraph (B) of paragraph (8) of subdivision (a) of Section 26003.

(c) The authority shall publish notice of the availability of project applications and deadlines for submission of project applications to the authority.

(d) The authority shall evaluate project applications based upon all of the following criteria:

(1) The extent to which the project develops manufacturing facilities, or purchases equipment for manufacturing facilities, located in California.

(2) The extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.

(3) The extent to which the project will create new, permanent jobs in California.

(4) To the extent feasible, the extent to which the project, or the product produced by the project, results in a reduction of greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by any federal or state law or regulation.

(5) The extent of unemployment in the area in which the project is proposed to be located.

(6) Any other factors the authority deems appropriate in accordance with this section.

(e) At a duly noticed public hearing, the authority shall approve, by resolution, project applications for financial assistance.

(f) Notwithstanding subdivision (k), and without regard to the actual date of any transaction between a participating party and the authority, any project approved by the authority by resolution for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code prior to March 24, 2010, shall not be subject to this section.

(g) The Legislative Analyst’s Office shall report to the Joint Legislative Budget Committee on the effectiveness of this program, on or before January 1, 2019, by evaluating factors, including, but not limited to, the following:

(1) The number of jobs created by the program in California.

(2) The number of businesses that have remained in California or relocated to California as a result of this program.

(3) The amount of state and local revenue and economic activity generated by the program.

(4) The types of advanced manufacturing, as defined in paragraph (1) of subdivision (a) of Section 26003, utilized.

(5) The amount of reduction in greenhouse gases, air pollution, water pollution, or energy consumption.

(h) The exclusions granted pursuant to Section 6010.8 of the Revenue and Taxation Code for projects approved by the authority pursuant to this

section shall not exceed one hundred million dollars (\$100,000,000) for each calendar year.

(i) (1) The authority shall study the efficacy and cost benefit of the sales and use tax exemption as it relates to advanced manufacturing projects. The study shall include the number of jobs created, the costs of each job, and the annual salary of each job. The study shall also consider a dynamic analysis of the economic output to the state that would occur without the sales and use tax exemption. Before January 1, 2017, the authority shall submit to the Legislature, consistent with Section 9795 of the Government Code, the result of the study.

(2) Before January 1, 2014, and within six months of any significant change to the net benefits test as described in subdivision (d), the authority shall work with the University of California or the California State University to perform a peer review of the net benefits test currently used to evaluate applicants applying pursuant to this section.

(3) Before January 1, 2015, the authority shall, consistent with Section 9795 of the Government Code, submit to the Legislature an interim report on the efficacy of the program conducted pursuant to this section. The study shall include recommendations on program changes that would increase the program's efficacy in creating permanent and temporary jobs, and whether eligibility for the program should be extended or narrowed to other manufacturing types. The authority may work with the Legislative Analyst's Office in preparing the report and its recommendations.

(j) (1) Except as provided in paragraph (2), this section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed. The sale or purchase of tangible personal property of a project approved prior to June 30, 2016, shall continue to be excluded from sales and use taxes pursuant to Section 6010.8 of the Revenue and Taxation Code for the period of time set forth in the authority's resolution approving the project pursuant to this section.

(2) Notwithstanding paragraph (1), the authority's obligation to submit to the Legislature a report pursuant to paragraph (3) of subdivision (i) shall remain operative until the submission of the report.

SEC. 13. Section 26011.8 is added to the Public Resources Code, to read:

26011.8. (a) The purpose of this section is to promote the creation of California-based manufacturing, California-based jobs, the reduction of greenhouse gases, or reductions in air and water pollution or energy consumption. In furtherance of this purpose, the authority may approve a project for financial assistance in the form of the sales and use tax exclusion established in Section 6010.8 of the Revenue and Taxation Code.

(b) For purposes of this section, "project" means a project as defined in subparagraph (B) of paragraph (7) of subdivision (a) of Section 26003.

(c) The authority shall publish notice of the availability of project applications and deadlines for submission of project applications to the authority.

(d) The authority shall evaluate project applications based upon a net benefits test that includes all of the following criteria:

(1) The extent to which the project develops manufacturing facilities, or purchases equipment for manufacturing facilities, located in California.

(2) The extent to which the anticipated benefit to the state from the project equals or exceeds the projected benefit to the participating party from the sales and use tax exclusion.

(3) The extent to which the project will create new, permanent jobs in California.

(4) To the extent feasible, the extent to which the project, or the product produced by the project, results in a reduction of greenhouse gases, a reduction in air or water pollution, an increase in energy efficiency, or a reduction in energy consumption, beyond what is required by any federal or state law or regulation.

(5) The extent of unemployment in the area in which the project is proposed to be located.

(6) Any other factors the authority deems appropriate in accordance with this section.

(e) At a duly noticed public hearing, the authority shall approve, by resolution, project applications for financial assistance.

(f) Notwithstanding subdivision (k), and without regard to the actual date of any transaction between a participating party and the authority, any project as defined in paragraph (7) of subdivision (a) of Section 26003 approved by the authority by resolution for the sales and use tax exclusion pursuant to Section 6010.8 of the Revenue and Taxation Code prior to March 24, 2010, shall not be subject to this section.

(g) The Legislative Analyst's Office shall report to the Joint Legislative Budget Committee on the effectiveness of this program, on or before January 1, 2019, by evaluating factors, including, but not limited to, the following:

(1) The number of jobs created by the program in California.

(2) The number of businesses that have remained in California or relocated to California as a result of this program.

(3) The amount of state and local revenue and economic activity generated by the program.

(4) The amount of reduction in greenhouse gases, air pollution, water pollution, or energy consumption.

(h) The exclusions granted pursuant to Section 6010.8 of the Revenue and Taxation Code for projects approved by the authority pursuant to this section shall not exceed one hundred million dollars (\$100,000,000) for each calendar year.

(i) The authority shall make every effort to expedite the operation of this section, and shall adopt regulations for purposes of implementing the section 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.

(j) If any significant changes are made to the net benefits test, as described in subdivision (d), the authority shall work with the University of California or the California State University to perform a peer review of the net benefits test currently used to evaluate applicants applying pursuant to this section.

(k) This section shall become operative on July 1, 2016, and shall remain in effect only until January 1, 2021, and as of that date is repealed. The sale or purchase of tangible personal property of a project approved prior to January 1, 2021, shall continue to be excluded from sales and use taxes pursuant to Section 6010.8 of the Revenue and Taxation Code for the period of time set forth in the authority's resolution approving the project pursuant to this section.

SEC. 14. Section 26012 of the Public Resources Code is repealed.

SEC. 15. Section 26013 of the Public Resources Code is repealed.

SEC. 16. Section 26014 of the Public Resources Code is amended to read:

26014. When the principal of and interest on bonds of the authority issued to finance or refund the cost of a particular project for a participating party shall have been fully paid and retired or when adequate provision shall have been made for the payment and retirement of the same, and all other conditions of the resolution, indenture, or agreement authorizing and securing the same shall have been satisfied and the lien of such resolution, indenture, or agreement shall have been released in accordance with the provisions thereof, the authority is authorized, upon such terms and conditions as may be prescribed by the authority, to execute such deeds and conveyances as are necessary or required to convey title to such project to such participating party.

SEC. 17. Section 26015 of the Public Resources Code is amended to read:

26015. (a) The authority, or the executive director of the authority, if authorized to do so by resolution of the authority, shall take official action towards the issuance of bonds with respect to any participating party at the next meeting of the authority occurring more than 30 days following receipt of such application or if by the executive director within 45 days of such receipt. The executive director may be authorized to take such action in a resolution of general authority. Official action towards the issuance of bonds may reserve the right of the authority to further review an application for financing and to consider the terms thereof prior to the issuance of bonds therefor.

(b) The authority shall take final action to approve or disapprove of the issuance of bonds or notes to lend financial assistance to participating parties within 60 days of the receipt by the authority of a request from such participating party for such action. Any such request by a participating party for such final action shall be accompanied by evidence of fulfillment of any

and all conditions to the issuance of such bonds or notes imposed at the time the first action towards the issuance thereof was taken by the authority and by copies of forms of all principal legal documents to be approved by the authority.

(c) The authority may give final approval for the issuance of such bonds or notes upon such terms as it reasonably deems necessary or desirable.

(d) Any action under this section shall be at the sole discretion of the authority.

SEC. 18. Section 26016 of the Public Resources Code is repealed.

SEC. 19. Section 26016.5 of the Public Resources Code is repealed.

SEC. 20. Section 26017 of the Public Resources Code is amended to read:

26017. The authority, no later than March 31 of each year, shall submit to the Legislature a report of its activities for the preceding calendar year ending December 31. Such report shall include (a) a listing of the applications received, (b) a listing of the applications accepted for financing, (c) a specification of bonds sold, interest rates thereon, and whether bond sales were pursuant to public bid or were negotiated, (d) a specification of the amount of bonds authorized but currently unsold, (e) a projection of the authority's needs and requirements for the coming year, and (f) a report of revenues and expenditures for the preceding fiscal year.

SEC. 21. Section 26020 of the Public Resources Code is repealed.

SEC. 22. Section 26021 of the Public Resources Code is repealed.

SEC. 23. Section 26022 of the Public Resources Code is amended to read:

26022. (a) The authority is authorized from time to time to issue its negotiable bonds, notes, debentures, or other securities (hereinafter collectively called "bonds") for any of its purposes. The bonds may be authorized, without limiting the generality of the foregoing, to finance a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties, or the purchase and sale of alternative source energy or projects pursuant to subdivision (g) of Section 26011. The authority may issue negotiable bond anticipation notes and may renew the notes from time to time. The bond anticipation notes may be paid from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. Notes and agreements relating to the notes and bond anticipation notes, collectively called notes, and the resolution or resolutions authorizing the notes may contain any provisions, conditions, or limitations that a bond, agreement relating to the bond, and bond resolution of the authority may contain. However, a note or renewal of the note shall mature at a time not exceeding three years from the date of issue of the original note.

(b) Except as may otherwise be expressly provided by the authority, every issue of its bonds, notes, or other obligations shall be general obligations of the authority payable from any revenues or moneys of the authority available for these purposes and not otherwise pledged, subject

only to any agreements with the holders of particular bonds, notes, or other obligations pledging any particular revenues or moneys and subject to any agreements with any participating party. Notwithstanding that the bonds, notes, or other obligations may be payable from a special fund, they are for all purposes negotiable instruments, subject only to the provisions of the bonds, notes, or other obligations for registration.

(c) The bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall bear the date or dates, mature at the time or times, not exceeding 50 years from their respective dates, bear interest at the fixed rate or rates, or at the variable rates, including multiple methods of setting rates from time to time while the bonds are outstanding, be payable at the time or times, be in the denominations, be executed in a manner, be payable in lawful money of the United States of America at a place or places, and be subject to terms of redemption or tender, as the resolution or resolutions may provide. The bonds or notes shall be sold by the Treasurer as agent for sale. The sales may be a public or private sale, and for the price or prices and on the terms and conditions, as the authority shall determine after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of the bonds or notes. Pending preparation of the definitive bonds, the Treasurer may issue interim receipts, certificates, or temporary bonds that shall be exchanged for the definitive bonds. The Treasurer may sell bonds, notes, or other evidence of indebtedness at a price below their par value. However, the discount on a security sold pursuant to this section shall not exceed 6 percent of the par value.

(d) A resolution or resolutions authorizing bonds or an issue of bonds may contain provisions that shall be a part of the contract with the holders of the bonds or any credit provider to be authorized, as to all of the following:

(1) Pledging the full faith and credit of the authority or pledging all or part of the revenues of a project or a revenue-producing contract or contracts made by the authority with an individual, partnership, corporation, or association or other body, public or private, or other moneys of the authority, to secure the payment of the bonds or of any particular issue of bonds, subject to the agreements with bondholders as may then exist.

(2) The rentals, fees, purchase payments, loan repayments, and other charges to be charged, and the amounts to be raised in each year by the charges, and the use and disposition of the revenues.

(3) The setting aside of reserves or sinking funds, and the regulation and disposition of the reserves or sinking funds.

(4) Limitations on the right of the authority or its agent to restrict and regulate the use of the project or projects to be financed out of the proceeds of the bonds or any particular issue of bonds.

(5) Limitations on the purpose to which the proceeds of sale of an issue of bonds then or thereafter to be issued may be applied and pledging those proceeds to secure the payment of the bonds or the issue of the bonds.

(6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(7) The procedure, if any, by which the terms of a contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to the amendment or abrogation, and the manner in which that consent may be given.

(8) Limitations on expenditures for operating, administrative, or other expenses of the authority.

(9) Defining the acts or omissions to act that constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of the holders in the event of a default.

(10) The mortgaging of a project and the site of the project for the purpose of securing the bondholders.

(11) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

(12) Provisions for the security of any provider of credit enhancement supporting payment on the bonds, but only in a manner subordinate to the right of bondholders.

(e) Neither the members of the authority nor a person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to personal liability or accountability by reason of the issuance of the bond or note.

(f) The authority shall have power out of any funds available for these purposes to purchase its bonds or notes without the cancellation thereof. The authority may hold, pledge, cancel, or resell those bonds, subject to and in accordance with agreements with bondholders.

SEC. 24. Section 26023 of the Public Resources Code is amended to read:

26023. In the discretion of the authority, any bonds issued under the provisions of this division may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be the State Treasurer or any trust company or bank having the powers of a trust company within or without the state. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of such bonds. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders or any credit provider as may be reasonable and proper and not in violation of law, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of bonds or of revenues or other moneys may furnish such indemnifying bonds or pledge such securities as may be required

by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders or any credit provider. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders or any credit provider. Notwithstanding any other provision of law, the State Treasurer shall not be deemed to have a conflict of interest by reason of acting as trustee pursuant to this division. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of a project.

SEC. 25. Section 26024 of the Public Resources Code is amended to read:

26024. Bonds issued under the provisions of this division shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the authority, or a pledge of the faith and credit of the state or of any such political subdivision, other than the authority, but shall be payable solely from the funds herein provided therefor. All such bonds shall contain on the face thereof a statement to the following effect:

“Neither the faith and credit nor the taxing power of the State of California or any local agency is pledged to the payment of the principal of or interest on this bond.”

The issuance of bonds under the provisions of this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing contained in this section shall prevent nor be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

SEC. 26. Section 26025 of the Public Resources Code is amended to read:

26025. (a) The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding, directly or indirectly, any bonds, notes, or other evidence of indebtedness of the authority or any public agency then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of such bonds, and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of a project or any portion thereof.

(b) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds, notes, or other securities may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending such application, be placed in escrow to be applied to

such purchase or retirement at maturity or redemption on such date as may be determined by the authority.

(c) Pending such use, any such escrowed proceeds may be invested and reinvested by the State Treasurer or any trustee in instruments as may be specified in the resolution or indenture governing the bonds to be refunded, maturing at such time or times as shall be appropriate to ensure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income, and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

(d) All such bonds shall be subject to the provisions of this division in the same manner and to the same extent as other bonds issued pursuant to this division. Prior to refunding bonds or evidence of indebtedness not originally issued by the authority, the authority shall make findings that the project being refinanced qualifies as a project as defined in subparagraph (A) of paragraph (8) of subdivision (a) of Section 26003 until June 30, 2016, and as of July 1, 2016, as defined in subparagraph (A) of paragraph (7) of subdivision (a) of Section 26003.

SEC. 27. Section 26026 of the Public Resources Code is repealed.

SEC. 28. Section 26027 of the Public Resources Code is repealed.

SEC. 29. Section 26030 of the Public Resources Code is amended to read:

26030. The authority may contract with any participating party for the construction or acquisition of a project by such participating party. All such contracts for the construction or acquisition of a project by a participating party shall provide that the participating party shall be responsible for the architectural and engineering design and for the construction and completion thereof, subject to such standards for architectural and engineering design as may be established, and subject to such supervision as the authority deems necessary. The authority may agree to pay the cost of such project constructed or acquired by any participating party and to advance such costs from time to time in installments or otherwise as required by the contract for the construction or acquisition thereof. Title to all such projects may be vested in the authority subject to the terms of any lease thereof to the participating party or the rights of a participating party under any contract for the purchase or acquisition of such project including the payment of the purchase price under installment sales contracts.

SEC. 30. Section 26033 of the Public Resources Code is amended to read:

26033. All moneys received pursuant to the provisions of this division, whether as proceeds from the sale of bonds, notes, or other evidences of indebtedness or as revenues, or as fees received by the authority, shall be deemed to be trust funds to be held and applied solely as provided in this

division. Any bank or trust company with which such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as the resolution authorizing the bonds of any issue or the trust agreements securing such bonds may provide.

SEC. 31. Section 26034 of the Public Resources Code is amended to read:

26034. Any holder of bonds, notes, or other obligations issued under the provisions of this division, and the trustee or trustees under any trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such trust agreement securing, such bonds, notes, or other obligations, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution or trust agreements, and may enforce and compel the performance of all duties required by this division or by such resolution or trust agreement to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges herein authorized and required by the provisions of such resolution or trust agreement to be fixed, established, and collected.

SEC. 32. Section 26035 of the Public Resources Code is amended to read:

26035. The exercise of the powers granted by this division shall be in all respects for the benefit of the people of this state, for their health and welfare, and protection of the state's environment. Any bonds, notes, or other obligations issued under the provisions of this division, their transfer and the income therefrom, shall at all times be free from taxation of every kind by the state and by municipalities and other political subdivisions of the state.

SEC. 33. Chapter 4 (commencing with Section 26050) is added to Division 16 of the Public Resources Code, to read:

#### CHAPTER 4. PROPERTY ASSESSED CLEAN ENERGY (PACE) AND CLEAN ENERGY FINANCING PROGRAM

##### Article 1. General Provisions and Definitions

26050. (a) The Legislature finds and declares all of the following:

(1) Property Assessed Clean Energy (PACE) financing has been pioneered by municipalities and counties in California as a way for homeowners and small business owners to finance voluntary energy and water efficiency and clean energy improvements.

(2) PACE financing was pioneered in the City of Berkeley, while the City and County of San Francisco, City of San Diego, City of Palm Desert, Sonoma County, and the California Statewide Communities Development

Authority (CSCDA) have already initiated or are working to launch additional programs.

(3) Seventeen other states, including Colorado and New York, have also enacted enabling PACE legislation.

(4) The public subsidy provided by the PACE financing is justified by the benefits received in job creation, lower energy demand, and spurring new clean industries that will grow the economy.

(b) It is the intent of the Legislature to assist local jurisdictions in financing the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements that are permanently fixed to real property through the use of voluntary contractual assessments.

(c) It is not the intent of the Legislature to create any debt, liability, or obligation on the part of the state in assisting local jurisdictions pursuant to this division.

26050.5. The Legislature further finds and declares both of the following:

(a) Actions by federally chartered home loan entities have frustrated efforts to accelerate the implementation of the PACE financing program, creating a need to establish effective alternative approaches that can be rapidly deployed to advance the purposes of this division.

(b) Among the most promising alternatives that can be implemented rapidly are those intended to increase access to capital for projects that advance the purposes of this division.

26051. Unless the context otherwise requires, the definitions in this article govern the construction of this chapter.

26052. “Applicant” means, for the purposes of Article 2 (commencing with Section 26060), a public agency as defined in paragraph (3) of subdivision (c) of Section 5898.20 of the Streets and Highways Code and, for the purposes of Article 3 (commencing with Section 26070), a financial institution providing a loan pursuant to that chapter to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements.

26053. “Clean Energy Upgrade Program” means a statewide energy and water efficiency and renewable energy generation building retrofit financing program developed by the State Energy Resources Conservation and Development Commission and the authority pursuant to Section 26070.

26054. “Property Assessed Clean Energy bond” or “PACE bond” means a bond that is secured by any of the following:

(a) A voluntary contractual assessment on property authorized pursuant to paragraph (2) of subdivision (a) of Section 5898.20 of the Streets and Highways Code.

(b) A voluntary contractual assessment or a voluntary special tax on property to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements that is levied pursuant to a chartered city’s constitutional authority under Section 5 of Article XI of the California Constitution.

(c) A special tax on property authorized pursuant to subdivision (b) of Section 53328.1 of the Government Code.

26055. “PACE program” means a program established by an applicant that is financed by the PACE bond.

26056. This chapter does not create any liability or obligation upon the State of California and none shall be incurred by the authority beyond the extent to which moneys shall have been provided under this division. The authority shall not create any debt, liability, or obligation on the part of the State of California payable from any source whatsoever other than the moneys provided under this chapter.

## Article 2. PACE Reserve Program

26060. The authority shall develop and administer a PACE Reserve program to reduce overall costs to the property owners of PACE bonds issued by an applicant by providing a reserve of no more than 10 percent of the initial principal amount of the PACE bond.

26061. To qualify for assistance pursuant to this chapter, the PACE program shall require all of the following:

(a) The interest rate on the PACE bond does not exceed a percentage as determined by the authority to be appropriate.

(b) Minimum legal loan structure and credit underwriting criteria as determined by the authority are met.

(c) Proceeds of the PACE bonds are used to finance qualified energy and water efficiency, electric vehicle charging infrastructure, and clean energy improvements.

(d) The improvement financed is for a residential project of three units or fewer, or a commercial project that costs less than twenty-five thousand dollars (\$25,000) in total.

26062. An applicant shall submit to the authority an application providing a detailed description of the PACE program, a detailed description of the transactional activities associated with the PACE bond issuance, including all transactional costs, and other information deemed necessary by the authority.

26063. (a) In evaluating eligibility, the authority shall consider whether the applicant’s PACE program includes the following conditions:

(1) Loan recipients are legal owners of underlying property.

(2) Loan recipients are current on mortgage and property tax payments.

(3) Loan recipients are not in default or in bankruptcy proceedings.

(4) Loans are for less than 10 percent of the value of the property.

(5) The property is within the geographical boundaries of the PACE program.

(6) The program offers financing for energy efficiency improvements or electric vehicle charging infrastructure.

(7) Improvements financed by the program follow applicable standards of energy efficiency retrofit work, including any guidelines adopted by the State Energy Resources Conservation and Development Commission.

(b) In evaluating an application, the authority shall consider all of the following factors:

(1) The use by the PACE program of best practices, adopted by the authority, to qualify eligible properties for participation in underwriting the PACE program.

(2) The cost efficiency of the applicant's PACE program, including bond issuance.

(3) The projected number of jobs created by the PACE program.

(4) The applicant's PACE program requirements for quality assurance and consumer protection as related to achieving efficiency and clean energy production.

(5) The mechanisms by which savings produced by this program are passed on to the property owners.

(6) Any other factors deemed appropriate by the authority.

26064. The authority shall review the applicant's PACE bond issuance, including, but not limited to, indenture, trust agreement, and fiscal agent agreement ("the bond documents") and, when the authority is satisfied that the bond documents are consistent with the requirements of the PACE Reserve program established pursuant to this chapter, the authority shall advance to the applicant or the applicant's bond trustee, at the closing of the applicant's PACE bonds, the amount made available from the Renewable Resource Trust Fund and approved by the authority for use in the PACE bond's reserve fund under the bond documents. Prior to the disbursement of moneys pursuant to this section into a reserve fund, the authority shall enter into an agreement with the applicant regarding the creation and operation of the reserve fund, including the manner in which the authority will be repaid for any moneys disbursed to the reserve fund.

### Article 3. Clean Energy Upgrade Program

26070. The authority shall administer a Clean Energy Upgrade Program to reduce overall costs to the property owners of a loan provided by an applicant to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements that are permanently fixed to real property by providing a reserve or other financial assistance at a level to be determined by the State Energy Resources Conservation and Development Commission and the authority. Improvements financed pursuant to this program shall be for a residential project of three units or fewer or a commercial project that costs less than twenty-five thousand dollars (\$25,000) in total.

26071. (a) The authority shall adopt regulations governing the implementation of this chapter, including quality assurance pursuant to subdivision (b) of Section 26072, at a publicly noticed meeting.

Notwithstanding any other law, regulations adopted pursuant to this section may be adopted as emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, including Section 11349.6 of that code, the Office of Administrative Law shall consider the adoption of the regulations pursuant to subdivision (a) to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

26072. (a) An applicant shall submit to the authority an application providing a detailed description of the loan program to finance the installation of distributed generation renewable energy sources, electric vehicle charging infrastructure, or energy or water efficiency improvements on real property, a detailed description of the transactional activities associated with the loan issuance, including all transactional costs, and other information deemed necessary by the authority.

(b) The authority shall ensure that all improvements financed by the program meet quality assurance standards developed by the authority in consultation with the State Energy Resources Conservation and Development Commission. The standards shall include contractor certification and third-party inspection of an appropriate portion of completed projects to ensure project performance and consumer protection.

26073. (a) In evaluating eligibility, the authority shall consider whether the applicant's loan program includes the following conditions:

- (1) Loan recipients are legal owners of underlying property.
- (2) Loan recipients are current on mortgage and property tax payments.
- (3) Loan recipients are not in default or in bankruptcy proceedings.
- (4) Loans are for less than 10 percent of the value of the property.
- (5) The program offers financing for energy and water efficiency improvements.

(6) Improvements financed by the program follow applicable standards of energy efficiency retrofit work, including any guidelines adopted by the State Energy Resources Conservation and Development Commission.

(b) In evaluating an application, the authority shall consider all of the following factors:

(1) The use by the loan program of best practices, adopted by the authority, to qualify eligible properties for participation in underwriting the loan program.

(2) The cost efficiency of the applicant's loan program.

(3) The projected number of jobs created by the loan program.

(4) The applicant's loan program requirements for quality assurance and consumer protection, as related to achieving efficiency and clean energy production, in accordance with the standards developed pursuant to subdivision (b) of Section 26072.

(5) The mechanisms by which savings produced by this program are passed on to the property owners.

(6) Any other factors deemed appropriate by the authority.

(c) The authority may approve a loan program that offers financing for electric vehicle charging infrastructure if the electric vehicle charging infrastructure is part of a project to install energy efficiency improvements and distributed generation renewable energy resources and is designed so that the project does not increase peak energy demand.

26074. (a) The authority shall require certification from a loan applicant that each loan offered pursuant to the applicant's loan program is consistent with the requirements of the Clean Energy Upgrade Program administered pursuant to this chapter.

(b) If the conditions of subdivision (a) are satisfied, the authority shall allocate to the applicant, at the closing of the loan, the amount made available from the Renewable Resource Trust Fund in the form of financial assistance as approved by the State Energy Resources Conservation and Development Commission and the authority. Prior to providing financial assistance pursuant to this section, the authority shall enter into an agreement with the applicant regarding the financial assistance, including the process for the possible return of moneys disbursed to or on behalf of the applicant.

#### Article 4. Appropriation and Reporting

26080. (a) Until January 1, 2015, an amount of up to fifty million dollars (\$50,000,000) from the Renewable Resource Trust Fund, established pursuant to Section 25751, is hereby appropriated to the authority for the purposes of this chapter. The moneys appropriated shall remain in the Renewable Resource Trust Fund until the funds are needed by the authority pursuant to this chapter.

(b) Of the moneys appropriated in subdivision (a), up to five hundred fifty thousand dollars (\$550,000) may be expended by the authority for the initial administrative costs in implementing this chapter.

(c) All repayments of moneys disbursed pursuant to this chapter shall be deposited into the Renewable Resource Trust Fund.

26081. (a) On March 31, 2011, and annually thereafter, the authority shall submit to the Legislature a report pursuant to Section 9795 of the Government Code on all of the following:

(1) The status of the account.

(2) A summary of the PACE bonds that received assistance pursuant to Article 2 (commencing with Section 26060) and a summary of the loans that received assistance pursuant to Article 3 (commencing with Section 26070).

(3) A summary of the benefits provided by this division, including reduced interest rates on the PACE bonds or on loans receiving assistance pursuant to this division.

(4) The number of jobs created by the PACE programs or loans that received assistance pursuant to this chapter.

(5) Information on energy and water savings resulting from the PACE programs or loans that received assistance pursuant to this chapter.

(6) Other information deemed appropriate by the authority.

(b) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

26082. (a) Notwithstanding Section 26080, twenty-five million dollars (\$25,000,000) of the unencumbered balance of the fifty million dollars (\$50,000,000) that was appropriated to the authority pursuant to Section 26080 and is in the Renewable Resource Trust Fund is hereby appropriated to the Energy Conservation Assistance Account established pursuant to Section 25416.

(b) Notwithstanding Section 25421, any unexpended funds appropriated pursuant to subdivision (a) remaining in the Energy Conservation Assistance Account on and after January 1, 2013, except to the extent those funds are encumbered pursuant to Section 25417.5, shall revert to the Renewable Resource Trust Fund and be available to the authority for the purposes of this chapter.

SEC. 34. Division 16.2 (commencing with Section 26100) of the Public Resources Code is repealed.

SEC. 35. Section 6010.8 of the Revenue and Taxation Code is amended to read:

6010.8. (a) “Sale” and “purchase” do not include any lease or transfer of title of tangible personal property constituting any project to any participating party. As used in this section, “project” has the meaning specified in subparagraph (B) of paragraph (8) of subdivision (a) of Section 26003 of the Public Resources Code and “participating party” has the meaning specified in subparagraph (B) of paragraph (7) of subdivision (a) of Section 26003 of the Public Resources Code.

(b) This section shall become inoperative on July 1, 2016, and, as of January 1, 2017, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2017, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 36. Section 6010.8 is added to the Revenue and Taxation Code, to read:

6010.8. (a) “Sale” and “purchase” do not include any lease or transfer of title of tangible personal property constituting any project to any participating party. As used in this section, “project” has the meaning specified in subparagraph (B) of paragraph (7) of subdivision (a) of Section 26003 of the Public Resources Code and “participating party” has the meaning specified in subparagraph (B) of paragraph (6) of subdivision (a) of Section 26003 of the Public Resources Code.

(b) This section shall become operative on July 1, 2016.