

## Senate Bill No. 859

### CHAPTER 368

An act to amend Section 568 of, and to add Sections 412 and 569, to the Food and Agricultural Code, to add Sections 12802.10 and 16428.86 to the Government Code, to amend Section 39712 of, and to add and repeal Section 44274.3 of, the Health and Safety Code, to amend Sections 6009.1, 42997, and 42999 of, and to add Sections 717 and 4799.05 to, the Public Resources Code, and to add Section 399.20.3 to the Public Utilities Code, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor September 14, 2016. Filed with  
Secretary of State September 14, 2016.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 859, Committee on Budget and Fiscal Review. Public resources: greenhouse gas emissions and biomass.

(1) The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The act authorizes the state board to include the use of market-based compliance mechanisms. Existing law requires all moneys, except for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law requires the Department of Finance, in consultation with the state board and any other relevant state agency, to develop, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund. Existing law requires moneys from the fund to be allocated for the purpose of reducing greenhouse gas emissions in this state and satisfying other purposes, where applicable and to the extent feasible, and authorizes specified investments if the investment furthers the regulatory purposes of the act and is consistent with law.

Existing law, the Cannella Environmental Farming Act of 1995, requires the Department of Food and Agriculture to establish and oversee an environmental farming program to provide incentives to farmers whose practices promote the well-being of ecosystems, air quality, and wildlife and their habitat. The act requires the Secretary of Food and Agriculture to convene a 5-member Scientific Advisory Panel on Environmental Farming, as prescribed, for the purpose of providing advice and assistance to federal, state, and local government agencies on issues relating to air, water, and wildlife habitat, as specified. Existing law authorizes the panel to establish ad hoc committees to assist the panel in performing its functions.

This bill would increase the number of members on the panel from 5 to 9 members and would require that the secretary appoint 5 instead of 3 of these members, the Secretary for Environmental Protection appoint 2 instead of one of these members, and the Secretary of the Natural Resources Agency appoint 2 instead of one of these members, as prescribed. The bill would additionally allow the secretary to appoint, in consultation with the panel, ex officio nonvoting members to the panel. The bill would add representatives of nongovernmental entities to persons who may be on the ad hoc committees.

This bill would require the State Air Resources Board to consult with the Secretary of Food and Agriculture and the panel in developing the quantification methods to demonstrate and quantify on-farm greenhouse gas emissions reductions.

This bill would require the Department of Food and Agriculture, in consultation with the panel, to establish and oversee a Healthy Soils Program to seek to optimize climate benefits while supporting the economic viability of California agriculture by providing incentives, including loans, grants, research, and technical assistance, or educational materials and outreach, to farmers whose management practices contribute to healthy soils and result in net long-term on-farm greenhouse gas benefits. The bill would authorize the program to include funding of on-farm demonstration projects and, if the funding of those projects is included, would require the department to establish a technical advisory committee to review the project applications for scientific validity and the project's potential to achieve greenhouse gas benefits. The bill would require the department to implement the program and quantify greenhouse gas emissions reductions in accordance with the quantification methods developed by the State Air Resources Board and specified funding guidelines.

This bill would require the Department of Food and Agriculture, prior to awarding grant funds from moneys from the Greenhouse Gas Reduction Fund, to review the applicant analysis identifying potential adverse impacts of a proposed project. The bill would prohibit a project from receiving funding from the department unless the applicant has made certain demonstrations to the department. The bill would require the department to prioritize projects based on the criteria pollutant emission benefits achieved by the project.

Existing law requires the California Environmental Protection Agency to identify disadvantaged communities and requires the Department of Finance, in consultation with the State Air Resources Board and any other relevant state agency, to develop, as specified, a 3-year investment plan for the moneys deposited in the Greenhouse Gas Reduction Fund.

This bill would additionally require moneys in the fund, where applicable and to the extent feasible, to be allocated to provide opportunities for Native American tribes in the state to participate in and benefit from statewide efforts to reduce greenhouse gas emissions. The bill also would additionally authorize moneys in the fund to be allocated to fund investments in programs

implemented by Native American tribes in the state if the investments further the regulatory purposes of the act and are consistent with law.

This bill would require the Secretary of the Natural Resources Agency to support the development of sustainable communities by managing and awarding financial assistance for the preparation and implementation of specified green infrastructure projects that reduce greenhouse gas emissions and provide multiple benefits, as defined, to specified entities. The bill would authorize moneys from the Greenhouse Gas Reduction Fund, upon appropriation, to be available for allocation by the Secretary of the Natural Resources Agency for the purposes of awarding the financial assistance. The bill would require the Secretary of the Natural Resources Agency to allocate at least 75% of the moneys to projects in disadvantaged communities, as specified. The bill would exempt the development and adoption of guidelines and selection criteria from the Administrative Procedure Act.

This bill would require the State Air Resources Board, no later than December 30, 2018, in consultation with the Natural Resources Agency and the Department of Forestry and Fire Protection, to complete a standardized greenhouse gas emissions inventory, as specified, and, by December 30, 2018, to complete a standardized accounting framework that supports statewide greenhouse gas emissions reduction goals and investments of moneys from the Greenhouse Gas Reduction Fund, as specified.

This bill would find and declare that a diversity of dairy methane management practices, including anaerobic digesters and nondigester dairy methane management strategies, can effectively reduce greenhouse gas emissions.

(2) Existing law establishes the Air Quality Improvement Program that is administered by the State Air Resources Board for the purposes of funding projects related to, among other things, the reduction of criteria air pollutants and improvement of air quality. Pursuant to its existing statutory authority, the state board has established the Clean Vehicle Rebate Project, as a part of the Air Quality Improvement Program, to promote the production and use of zero-emission vehicles by providing rebates for the purchase of new zero-emission vehicles.

The Charge Ahead California Initiative requires the State Air Resources Board to adopt, no later than June 30, 2015, revisions to the criteria and other requirements for the Clean Vehicle Rebate Project to, among other things, limit eligibility based on income.

This bill would, between November 1, 2016, and July 1, 2017, require the State Air Resources Board, for the purposes of the Clean Vehicle Rebate Project, to, among other things, offer rebates only to applicants who purchase an eligible vehicle and have a specified maximum gross annual income; increase rebate payments by \$500 for low-income applicants, as defined; and prioritize rebate payments for low-income applicants.

(3) Existing law authorizes the Director of Forestry and Fire Protection to enter into agreements and make loans for various forest resource improvement projects to improve the timber productivity of forest lands in

the state and to improve all forest resources and the total forest resource system.

This bill would additionally authorize the Director of Forestry and Fire Protection to provide grants to, or enter into contracts or other cooperative agreements with, private or nongovernmental entities, Native American tribes, or local, state, and federal public agencies for the implementation and administration of projects and programs to improve forest health and reduce greenhouse gas emissions. The bill would require any such project or program funded with moneys from the Greenhouse Gas Reduction Fund to comply with all statutory and program requirements applicable to the use of moneys from that fund.

This bill would require the Department of Forestry and Fire Protection to allocate funding to specified landscape-scale projects.

(4) Existing law establishes the CalRecycle Greenhouse Gas Reduction Revolving Loan Program, administered by the Department of Resources Recycling and Recovery (CalRecycle), to provide loans to reduce the emissions of greenhouse gases by promoting in-state development of infrastructure to process organic and other recyclable materials into new value-added products. Existing law requires CalRecycle to administer a grant program to provide financial assistance, in the form of grants, incentive payments, contracts, or other funding mechanisms, to reduce the emissions of greenhouse gases by promoting in-state development of infrastructure to process organics and other recyclable materials into new value-added products.

This bill would revise the 2 programs described above to, among other things, expand the projects eligible for financial assistance under those programs to other projects to reduce organic waste.

(5) Existing law grants to various local entities the right, title, and interest of the state in and to certain tidelands and submerged lands in trust for public trust purposes. Existing law makes legislative declarations and findings regarding those granted public trust lands, the role of the state as both trustor and representative of the people of the state, who are the trust beneficiaries, and the fiduciary duties of the trustee, including the duty to take reasonable steps to enforce claims that are part of the trust property and to defend actions that may result in a loss to the trust.

This bill would additionally find and declare that a trustee of public trust lands may bring any action related to its granted public trust lands, including an action to abate a public nuisance, as a representative of the trust beneficiaries.

(6) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law requires every electrical corporation to file with the commission a standard tariff for electricity generated by an electric generation facility, as defined, that qualifies for the tariff, is owned and operated by a retail customer of the electrical corporation, and is located within the service territory of, and developed to sell electricity to, the electrical corporation. The commission refers to this requirement as the renewable feed-in tariff.

Existing law requires that, in order to qualify for the tariff, the electric generation facility: (1) have an effective capacity of not more than 3 megawatts, subject to the authority of the commission to reduce this megawatt limitation, (2) be interconnected and operate in parallel with the electric transmission and distribution grid, (3) be strategically located and interconnected to the electrical transmission and distribution system in a manner that optimizes the deliverability of electricity generated at the facility to load centers, and (4) meet the definition of an eligible renewable energy resource under the California Renewables Portfolio Standard Program. Existing law requires an electrical corporation to make the tariff available to the owner or operator of an electric generation facility within the service territory of the electrical corporation, upon request, on a first-come-first-served basis, until the electrical corporation meets its proportionate share of a statewide cap of 750 megawatts cumulative rated generation capacity served under the renewable feed-in tariff and a renewable feed-in tariff that is applicable to a local publicly owned electric utility. In addition to the 750 megawatt limitation, the renewable feed-in tariff law requires the commission to direct the electrical corporations to collectively procure at least 250 megawatts of cumulative rated generating capacity from developers of bioenergy projects that commence operation on or after June 1, 2013. The commission is required to undertake specific steps to implement the bioenergy feed-in tariff requirement.

This bill would additionally require electrical corporations, by December 1, 2016, to collectively procure, through financial commitments of 5 years, their proportionate share of 125 megawatts of cumulative rated generating capacity from bioenergy projects commencing operation prior to June 1, 2013, that each produces its generation using specified minimum percentages of certain types of forest feedstock. The bill would require local publicly owned electric utilities serving more than 100,000 customers to procure their proportionate shares of 125 megawatts of cumulative rated capacity from those kinds of bioenergy projects subject to terms of at least 5 years. Because this bill would impose additional duties on a local publicly owned electric utility, this bill would impose a state-mandated local program.

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the commission is a crime.

Because the provisions of this bill would be a part of the act and because a violation of an order or decision of the commission implementing its requirements would be a crime, this bill would impose a state-mandated local program.

(7) Existing law establishes the Department of Forestry and Fire Protection in the Natural Resources Agency and requires the department to coordinate programs of fire protection, fire prevention, pest control, and forest and range maintenance and enhancement.

This bill would require the Secretary of the Natural Resources Agency to establish a working group on expanding wood product markets that can

utilize woody biomass, especially biomass removed from high hazard zones, as determined by the department.

(8) This bill would appropriate \$1,400,000 from certain moneys deposited in the Waste Discharge Permit Fund to the State Water Resources Control Board to provide grants or contracts for the development of planning, environmental, and design documents in furtherance of projects for eliminating public health and safety risks from wastewater, and agricultural and other drainage of urbanized areas for tributaries to the Salton Sea.

(9) This bill would incorporate changes to Section 42999 of the Public Resources Code proposed by this bill and SB 970, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

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

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

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

Appropriation: yes.

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

SECTION 1. It is the intent of the Legislature to provide funding for various projects that decrease wildfire risk and reduce greenhouse gas emissions that are caused by wildfires in Tier 1 High Hazard Zones identified by the Tree Mortality Task Force. However, it is not the intent of the Legislature that this act eliminate, alter, or otherwise interfere with any activities implemented by the Tree Mortality Task Force relating to forest improvement and health, including vegetation management activities.

SEC. 2. Section 412 is added to the Food and Agricultural Code, to read:

412. (a) The Legislature finds and declares that a diversity of dairy methane management practices, including anaerobic digesters and nondigester dairy methane management strategies, can effectively reduce greenhouse gas emissions. Nondigester dairy methane management strategies include, but are not limited to, scrape conversion, open solar drying and composting of manure onsite, conversion of dairy operations to pasture-based management, and solid separation technologies.

(b) For purposes of this section, the following terms have the following meanings:

(1) “Conversion of dairy operations to pasture-based management” means dairying systems where the dairy cows spend a portion of their time grazing on fields in which some or all of the manure is deposited and left in the field and decomposes aerobically, which avoids methane emissions.

(2) “Open solar drying and composting of manure onsite” means the collection, storage, and drying of dairy manure in a nonliquid environment.

(3) “Scrape conversion” means the conversion of flush water lagoon systems to solid-scrape or dry manure management practices, including vacuum technologies for manure management.

(4) “Solid separation technologies” means technologies designed to separate liquid components of manure from minerals and organic components, for the purposes of reducing methane emissions.

SEC. 3. Section 568 of the Food and Agricultural Code is amended to read:

568. (a) The secretary shall convene a nine-member Scientific Advisory Panel on Environmental Farming to advise the secretary on the implementation of the Healthy Soils Program established pursuant to Section 569, and the State Water Efficiency and Enhancement Program established by the department from moneys made available pursuant to Chapter 2 of the Statutes of 2014, and to assist federal, state, and local government agencies, as appropriate or necessary, on issues relating to the impact of agricultural practices on air, water, and wildlife habitat to do the following:

(1) Review data on the impact that agriculture has on the environment and recommend to the secretary and appropriate state agencies the best available science on environmental impacts of agriculture, as well as practices and policies based on that information to advance the goals of this article, including Section 569.

(2) Compile the net environmental impacts that agriculture creates for the environment, identified pursuant to paragraph (1).

(3) Research, review, and comment on data upon which proposed environmental policies and regulatory programs are based to ensure that the environmental impacts of agricultural activities are accurately portrayed and to identify incentives that may be provided to encourage agricultural practices with environmental benefits.

(4) Assist government agencies to incorporate policies and practices identified pursuant to paragraph (1) into environmental regulatory programs.

(b) (1) Members of the panel shall be highly qualified and professionally active or engaged in the conduct of scientific research. Of the members first appointed to the panel, two shall serve for a term of two years and three shall serve for a term of three years, as determined by lot. Thereafter, members shall be appointed for a term of three years. The members shall be appointed as follows:

(A) Five members shall be appointed by the secretary as follows:

(i) At least two members shall have a minimum of five years of training and experience in the field of agriculture and shall represent production agriculture.

(ii) At least one member shall have training and field experience in on-farm management practices that reduce greenhouse gas emissions, sequester carbon, or both.

(iii) At least one member shall be certified as a producer pursuant to federal Organic Foods Production Act of 1990 (7 U.S.C. Sec. 6501 et seq.).

(iv) At least one member shall have technical expertise in agricultural conservation planning and management.

(B) Two members shall be appointed by the Secretary for Environmental Protection. One shall have a minimum of five years of training and experience in the field of human health or environmental science, and one shall have expertise in greenhouse gas emissions reductions practices related to agriculture.

(C) Two members who have a minimum of five years of training and experience in the field of resource management shall be appointed by the Secretary of the Natural Resources Agency. One member shall additionally have expertise in climate change adaptation and climate change impacts in the agricultural sector.

(2) The secretary may also appoint, in consultation with the panel, ex officio nonvoting members to the panel.

(c) The panel may establish ad hoc committees, which may include professionals, scientists, or representatives of nongovernmental entities, to assist it in performing its functions.

(d) The panel shall be created and maintained with funds made available from existing resources within the department to the extent they are available.

(e) The State Air Resources Board shall consult with the secretary and the panel, as appropriate, in developing the quantification methods described in subdivision (b) of Section 16428.9 of the Government Code as it relates to the demonstration and quantification of on-farm greenhouse gas emissions reductions.

SEC. 4. Section 569 is added to the Food and Agricultural Code, to read:

569. (a) (1) The department, in consultation with the panel, shall establish and oversee a Healthy Soils Program. The program shall seek to optimize climate benefits while supporting the economic viability of California agriculture by providing incentives, including, but not limited to, loans, grants, research, and technical assistance, and educational materials and outreach, to farmers whose management practices contribute to healthy soils and result in net long-term on-farm greenhouse gas benefits. The program may also include the funding of on-farm demonstration projects that further the goals of the program.

(2) The department, in consultation with the panel, may determine priorities for the program and give priority to projects that occur in and benefit disadvantaged communities identified pursuant to Section 39711 of the Health and Safety Code, show promise of being replicable in other parts of the state, or provide environmental and agronomic cobenefits, such as improved air and water quality, improved crop yield, and reduced soil erosion.

(3) The panel shall also advise the department on scientific findings, program framework, guidelines, grower incentives, and providing technical assistance.

(4) If the department elects to fund on-farm demonstration projects described in paragraph (1), the department, in consultation with the panel, shall establish a technical advisory committee to review on-farm demonstration project applications for scientific validity and the proposed project's potential to achieve greenhouse gas benefits.

(b) The department shall implement the program and quantify greenhouse gas emissions reductions in accordance with the funding guidelines developed by the State Air Resources Board pursuant to Section 39715 of the Health and Safety Code and the quantification methods developed by the State Air Resources Board pursuant to Section 16428.9 of the Government Code.

(c) (1) The department may pursue public and private sources to support the Healthy Soils Program.

(2) To the extent funds are available, the department may provide support to the program, including, but not limited to, technical assistance, education, and outreach.

(d) For purposes of this section, “panel” means the Scientific Advisory Panel on Environmental Farming.

(e) For purposes of the Healthy Soils Program, the following terms have the following meanings:

(1) “Greenhouse gas benefits” means greenhouse gas emissions source reduction or carbon sequestration.

(2) “Healthy soils” means soils that enhance their continuing capacity to function as a biological system, increase soil organic matter, improve soil structure and water- and nutrient-holding capacity, and result in net long-term greenhouse gas benefits.

(3) “On-farm demonstration projects” means projects that incorporate farm management practices that result in greenhouse gas benefits across all farming types with the intent to establish or promote healthy soils.

SEC. 5. Section 12802.10 is added to the Government Code, to read:

12802.10. (a) For purposes of this section, the following terms have the following meanings:

(1) “Critically underserved community” has the same meaning as defined in Section 5642 of the Public Resources Code.

(2) “Disadvantaged community” means a community identified pursuant to Section 39711 of the Health and Safety Code or pursuant to Section 75005 of the Public Resources Code.

(3) “Multiple benefits” includes, but is not limited to, a decrease in air and water pollution or a reduction in the consumption of natural resources and energy, including, but not limited to, the establishment and enhancement of projects listed in subdivision (e).

(4) “Secretary” means the Secretary of the Natural Resources Agency.

(b) To support the development of sustainable communities, the secretary shall manage and award financial assistance, for the preparation and implementation of green infrastructure projects that reduce greenhouse gas emissions and provide multiple benefits, to any of the following:

(1) A city.

(2) A county.

(3) A special district.

(4) A nonprofit organization.

(5) An agency or entity formed pursuant to the Joint Exercise of Powers Act (Chapter 5 (commencing with Section 6500) of Division 7 of Title 1)

if at least one of the parties to the joint powers agreement qualifies as an eligible applicant, notwithstanding the Joint Exercise of Powers Act.

(c) Moneys from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8, shall be available, upon appropriation by the Legislature, for allocation by the secretary pursuant to this section.

(d) The secretary shall develop minimum requirements for awarding moneys for eligible projects pursuant to this section. Those requirements shall require a project, in addition to reducing greenhouse gas emissions, to do at least one of the following:

(1) Acquire, create, enhance, or expand community parks and green spaces.

(2) Use natural systems or systems that mimic natural systems to achieve multiple benefits.

(e) The multiple benefits of a project may include, but are not limited to, the establishment or enhancement of at least two of the following:

(1) The greening of existing public lands and structures, including schools.

(2) Multiobjective stormwater projects, including the construction of permeable surfaces and collection basins and barriers.

(3) Green streets and alleys that integrate green infrastructure elements into the street or alley design, including permeable surfaces, bioswales, and trees.

(4) Urban heat island mitigation and energy conservation efforts through greening, including green roof projects.

(5) Nonmotorized urban trails that provide safe routes for both recreation and travel between residences, workplaces, commercial centers, and schools.

(6) Tree canopy.

(7) Wetlands.

(8) Neighborhood, city, regional, or county parks and open space.

(9) Climate resilience and adaptation of urban areas that reduce vulnerability to climate impacts and improve the ability of natural systems to buffer the impacts of climate change.

(10) Economic, social, and health benefits, including, but not limited to, recreational opportunities, workforce education and training, contracting, and job opportunities for disadvantaged communities.

(f) The secretary shall give additional consideration to awarding moneys for a project pursuant to this section that meets at least two of the following criteria:

(1) Provides park or recreational benefits to a critically underserved community or disadvantaged community.

(2) Is proposed by a critically underserved community or disadvantaged community.

(3) Develops partnerships with local community organizations and businesses in order to strengthen outreach to disadvantaged communities, provides access to quality jobs for residents of disadvantaged communities, or provides access to workforce education and training.

(4) Uses interagency cooperation and integration.

(5) Uses existing public lands and facilitates the use of public resources and investments, including schools.

(g) The secretary shall allocate at least 75 percent of the moneys available for the purposes of this section to projects that are located in, and that provide benefits to, disadvantaged communities.

(h) In implementing this section, the secretary shall maximize the expenditure of funds made available pursuant to the Statewide Park Development and Community Revitalization Act of 2008 (Chapter 3.3 (commencing with Section 5640) of Division 5 of the Public Resources Code).

(i) The secretary shall hold at least two public hearings to gather public input on program development before establishing the program guidelines and selection criteria. The Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1) does not apply to the development and adoption of guidelines and selection criteria adopted pursuant to this section.

SEC. 6. Section 16428.86 is added to the Government Code, to read:

16428.86. (a) Prior to awarding grant funds from moneys made available from the Greenhouse Gas Reduction Fund, the Department of Food and Agriculture shall review the applicant's analysis identifying potential adverse impacts of the proposed project, including a net increase in criteria pollutants, toxic air contaminants, and hazardous air pollutants; groundwater and surface water impacts; and truck traffic and odor.

(b) A project shall not receive funding unless the applicant has demonstrated to the Department of Food and Agriculture that the applicant has done all of the following:

(1) Conducted outreach in areas that will potentially be adversely impacted by the project.

(2) Determined potential adverse impacts of the project.

(3) Committed to measures to mitigate impacts.

(c) In making awards, the Department of Food and Agriculture shall prioritize projects based on the criteria pollutant emission benefits achieved by the project.

(d) A project funded by the Department of Food and Agriculture that results in localized impacts in disadvantaged communities shall not be considered to provide a benefit to disadvantaged communities for the purposes of Section 39713 of the Health and Safety Code.

SEC. 7. Section 39712 of the Health and Safety Code is amended to read:

39712. (a) (1) It is the intent of the Legislature that moneys shall be appropriated from the fund only in a manner consistent with the requirements of this chapter and Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code.

(2) The state shall not approve allocations for a measure or program using moneys appropriated from the fund except after determining, based on the available evidence, that the use of those moneys furthers the regulatory purposes of Division 25.5 (commencing with Section 38500) and is

consistent with law. If any expenditure of moneys from the fund for any measure or project is determined by a court to be inconsistent with law, the allocations for the remaining measures or projects shall be severable and shall not be affected.

(b) Moneys shall be used to facilitate the achievement of reductions of greenhouse gas emissions in this state consistent with Division 25.5 (commencing with Section 38500) and, where applicable and to the extent feasible:

(1) Maximize economic, environmental, and public health benefits to the state.

(2) Foster job creation by promoting in-state greenhouse gas emissions reduction projects carried out by California workers and businesses.

(3) Complement efforts to improve air quality.

(4) Direct investment toward the most disadvantaged communities and households in the state.

(5) Provide opportunities for businesses, public agencies, Native American tribes in the state, nonprofits, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.

(6) Lessen the impacts and effects of climate change on the state's communities, economy, and environment.

(c) Moneys appropriated from the fund may be allocated, consistent with subdivision (a), for the purpose of reducing greenhouse gas emissions in this state through investments that may include, but are not limited to, any of the following:

(1) Funding to reduce greenhouse gas emissions through energy efficiency, clean and renewable energy generation, distributed renewable energy generation, transmission and storage, and other related actions, including, but not limited to, at public universities, state and local public buildings, and industrial and manufacturing facilities.

(2) Funding to reduce greenhouse gas emissions through the development of state-of-the-art systems to move goods and freight, advanced technology vehicles and vehicle infrastructure, advanced biofuels, and low-carbon and efficient public transportation.

(3) Funding to reduce greenhouse gas emissions associated with water use and supply, land and natural resource conservation and management, forestry, and sustainable agriculture.

(4) Funding to reduce greenhouse gas emissions through strategic planning and development of sustainable infrastructure projects, including, but not limited to, transportation and housing.

(5) Funding to reduce greenhouse gas emissions through increased in-state diversion of municipal solid waste from disposal through waste reduction, diversion, and reuse.

(6) Funding to reduce greenhouse gas emissions through investments in programs implemented by local and regional agencies, local and regional collaboratives, Native American tribes in the state, and nonprofit organizations coordinating with local governments.

(7) Funding research, development, and deployment of innovative technologies, measures, and practices related to programs and projects funded pursuant to this chapter.

SEC. 8. Section 44274.3 is added to the Health and Safety Code, to read:

44274.3. (a) For purposes of this section, “low income” means a resident of the state whose household income is less than or equal to 300 percent of the federal poverty level.

(b) Beginning November 1, 2016, under the Clean Vehicle Rebate Project established as a part of the Air Quality Improvement Program, the state board shall do the following:

(1) Only offer rebates to applicants who purchase an eligible vehicle and have a gross annual income, as reported on the Internal Revenue Service Form 1040, the Internal Revenue Service Form 1040A, or the Internal Revenue Service Form 1040EZ, that does not exceed the following:

(A) One hundred fifty thousand dollars (\$150,000) for single filers.

(B) Two hundred four thousand dollars (\$204,000) for head-of-household filers.

(C) Three hundred thousand dollars (\$300,000) for joint filers.

(2) Increase the rebate payment by five hundred dollars (\$500) for a low-income applicant for all eligible vehicle types.

(3) Only offer rebates for plug-in hybrids that have an electric range of at least 20 miles.

(4) Provide outreach to low-income households to increase consumer awareness of the rebate project.

(5) Prioritize rebate payments to low-income applicants.

(c) The income restrictions set forth in paragraph (1) of subdivision (b) shall not apply to fuel cell vehicles.

(d) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 717 is added to the Public Resources Code, to read:

717. (a) The Secretary of the Natural Resources Agency shall establish a working group on expanding wood product markets that can utilize woody biomass, especially biomass that is removed from high hazard zones, as determined by the department. These markets include, but are not limited to, animal bedding, biochar, cross-laminated timber, mulch, oriented strand board, pulp, post, shredding, and veneer products.

(b) At a minimum, the working group shall include members of the working group on wood market products established under the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(c) By June 1, 2017, the working group shall submit recommendations to the Legislature on actions that may be taken to encourage the development of the wood product markets, including the identification of potential pilot projects.

SEC. 10. Section 4799.05 is added to the Public Resources Code, to read:

4799.05. (a) The director may provide grants to, or enter into contracts or other cooperative agreements with, entities, including, but not limited to, private or nongovernmental entities, Native American tribes, or local, state, and federal public agencies, for the implementation and administration of projects and programs to improve forest health and reduce greenhouse gas emissions.

(b) Any project or program described in this section that is funded with moneys from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code, shall comply with all statutory and program requirements applicable to the use of moneys from the fund.

(c) Moneys appropriated to the department for landscape-scale projects shall be allocated as follows:

(1) To subsidize the removal of small diameter material, especially surface fuels and ladder fuels, as well as dead trees, in order to help develop markets for beneficial uses of the material, including, but not limited to, animal bedding, biochar, cross-laminated timber, mulch, oriented strandboard, pulp, post, shredding, and veneer products.

(2) For multiple benefit projects, such as tree thinning, carbon sequestration, forest resilience, and improved ecological outcome projects, including, but not limited to, restoring watershed health and function and supporting biodiversity and wildlife adaptation to climate change. The department shall give grant funding priority to landowners who practice uneven-age forest management with a resilient forest of diverse age, size, and species class within the boundaries of the project and whose activities are conducted pursuant to an approved timber harvest plan, nonindustrial timber harvest plan, or working forest management plan. An application for a grant for a project under this subparagraph shall include a description of how the proposed project will increase average stem diameter and provide other site-specific improvement to forest complexity, as demonstrated by the expansion of the variety of tree age classes and species persisting for a period of at least 50 years. The department shall also give funding priority to landowners who agree to long-term forest management goals prescribed by the department.

(3) For activities on National Forest lands to increase tree stand heterogeneity, create forest openings of less than one acre, and increase average tree stand diameter of residual trees. Any grants provided under this subparagraph shall be approved by the department, in collaboration with appropriate state agencies, including the State Air Resources Board.

SEC. 11. Section 6009.1 of the Public Resources Code is amended to read:

6009.1. The Legislature finds and declares all of the following:

(a) Granted public trust lands remain subject to the supervision of the state and the state retains its duty to protect the public interest in granted public trust lands.

(b) The state acts both as the trustor and the representative of the beneficiaries, who are all of the people of this state, with regard to public trust lands, and a grantee of public trust lands, including tidelands and submerged lands, acts as a trustee, with the granted tidelands and submerged lands as the corpus of the trust.

(c) A grantee may fulfill its fiduciary duties as trustee by determining the application of each of the following duties, all of which are applicable under common trust principles:

- (1) The duty of loyalty.
- (2) The duty of care.
- (3) The duty of full disclosure.
- (4) The duty to keep clear and adequate records and accounts.
- (5) The duty to administer the trust solely in the interest of the beneficiaries.
- (6) The duty to act impartially in managing the trust property.
- (7) The duty to not use or deal with trust property for the trustee's own profit or for any other purpose unconnected with the trust, and to not take part in a transaction in which the trustee has an interest adverse to the beneficiaries.
- (8) The duty to take reasonable steps under the circumstances to take and keep control of and to preserve the trust property.
- (9) The duty to make the trust property productive under the circumstances and in furtherance of the purposes of the trust.
- (10) The duty to keep the trust property separate from other property not subject to the trust and to see that the trust property is designated as property of the trust.
- (11) The duty to take reasonable steps to enforce claims that are part of the trust property.
- (12) The duty to take reasonable steps to defend actions that may result in a loss to the trust.
- (13) The duty to not delegate to others the performance of acts that the trustee can reasonably be required to perform and to not transfer the administration of the trust to a cotrustee. If a trustee has properly delegated a matter to an agent, the trustee has a duty to exercise direct supervision over the performance of the delegated matter.

(d) All duties endowed upon a trustee of state lands shall depend upon the terms of the trust, and if there is no provision, express or implied, within the terms of the trust, a statute, or a grant, the trustee's duties shall be interpreted and determined by principles and rules evolved by courts of equity with respect to common trust principles.

(e) Notwithstanding any other law, and in addition to any other rights and capacities of a trustee to act under law, a trustee of public trust lands shall have the right to bring any action related to its granted public trust lands, including an action to abate a public nuisance, as a representative of the beneficiaries.

(f) Common trust principles do not nullify an act of the Legislature or modify its duty under the California Constitution to do all things necessary to execute and administer the public trust.

SEC. 12. Section 42997 of the Public Resources Code is amended to read:

42997. (a) The CalRecycle Greenhouse Gas Reduction Revolving Loan Program is hereby established and shall be administered by the department.

(b) (1) The department shall expend the moneys transferred pursuant to subdivision (c) of Section 42996, and any additional moneys appropriated by the Legislature for the purposes of this subdivision, to provide loans to reduce the emissions of greenhouse gases by promoting in-state development of infrastructure or other projects to reduce organic waste or process organic and other recyclable materials into new value-added products. The moneys shall be expended consistent with the requirements of Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code and Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the Health and Safety Code.

(2) For a loan made pursuant to this subdivision, the department shall expend the moneys in the loan fund to provide loans to public and private entities for in-state infrastructure projects or other projects that reduce the emissions of greenhouse gases by any of the following:

(A) Organics composting.

(B) Organics in-vessel digestion.

(C) Recyclable material manufacturing.

(D) Activities that expand and improve waste diversion and recycling, including, but not limited to, food waste prevention.

(3) For purposes of this subdivision, eligible infrastructure projects that reduce greenhouse gas emissions include, but are not limited to, any of the following:

(A) Capital investments in new facilities and increased throughput at existing facilities for activities, such as converting windrow composting to aerated-static-pile composting to use food waste as feedstock.

(B) Designing and constructing organics in-vessel digestion facilities to produce products, such as biofuels, bioenergy, and soil amendments.

(C) Designing and constructing facilities for processing recyclable materials.

(4) For a loan made pursuant to this subdivision, both of the following apply:

(A) The terms and conditions of an approved loan shall be specified in a loan agreement and related documents between the borrower and the department. These terms and conditions shall include reporting requirements that include, but are not limited to, reporting the information specified in Section 16428.9 of the Government Code.

(B) The department shall approve only those loan applications that demonstrate the applicant's ability to repay the loan.

(5) The department may establish additional requirements that it determines to be necessary or useful to achieve the revolving loan program's objectives, including, but not limited to, ensuring repayment ability.

SEC. 13. Section 42999 of the Public Resources Code is amended to read:

42999. (a) Any additional funds appropriated by the Legislature from the Greenhouse Gas Reduction Fund, established pursuant to Section 16428.8 of the Government Code, to the department shall be used to administer a grant program to provide financial assistance to reduce the emissions of greenhouse gases by promoting in-state development of infrastructure, food waste prevention, or other projects to reduce organic waste or process organic and other recyclable materials into new value-added products. The moneys shall be expended consistent with the requirements of Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4 of Title 2 of the Government Code and Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the Health and Safety Code.

(b) The department shall expend the moneys to provide grants, incentive payments, contracts, or other funding mechanisms to public and private entities for in-state infrastructure projects or other projects that reduce the emissions of greenhouse gases by any of the following:

- (1) Organics composting.
- (2) Organics in-vessel digestion.
- (3) Recyclable material manufacturing.
- (4) Activities that expand and improve waste diversion and recycling, including, but not limited to, food waste prevention.

(c) For purposes of this section, eligible infrastructure projects that reduce greenhouse gas emissions include, but are not limited to, any of the following:

- (1) Capital investments in new facilities and increased throughput at existing facilities for activities, such as converting windrow composting to aerated-static-pile composting to use food waste as feedstock.
- (2) Designing and constructing organics in-vessel digestion facilities to produce products, such as biofuels, bioenergy, and soil amendments.
- (3) Designing and constructing facilities for processing recyclable materials.

SEC. 13.5. Section 42999 of the Public Resources Code is amended to read:

42999. (a) Any additional funds appropriated by the Legislature from the Greenhouse Gas Reduction Fund, established pursuant to Section 16428.8 of the Government Code, to the department shall be used to administer a grant program to provide financial assistance to reduce the emissions of greenhouse gases by promoting in-state development of infrastructure, food waste prevention, or other projects to reduce organic waste or process organic and other recyclable materials into new, value-added products. The moneys shall be expended consistent with the requirements of Article 9.7 (commencing with Section 16428.8) of Chapter 2 of Part 2 of Division 4

of Title 2 of the Government Code and Chapter 4.1 (commencing with Section 39710) of Part 2 of Division 26 of the Health and Safety Code.

(b) From moneys appropriated for purposes of this section, the department shall provide grants, incentive payments, contracts, or other funding mechanisms to public and private entities for in-state infrastructure projects or other projects that reduce the emissions of greenhouse gases by any of the following:

- (1) Organics composting.
- (2) Organics in-vessel digestion.
- (3) Recyclable material manufacturing.
- (4) Activities that expand and improve waste diversion and recycling, including, but not limited to, food waste prevention.

(c) For purposes of this section, eligible infrastructure projects that reduce greenhouse gas emissions include, but are not limited to, any of the following:

(1) Capital investments in new facilities and increased throughput at existing facilities for activities, such as converting windrow composting to aerated-static-pile composting to use food waste as feedstock.

(2) Designing and constructing organics in-vessel digestion facilities to produce products, such as biofuels, bioenergy, and soil amendments.

(3) Designing and constructing facilities for processing recyclable materials.

(d) In awarding a grant for organics composting or anaerobic digestion pursuant to this section, the department shall consider all of the following:

(1) The amount of greenhouse gas emissions reductions that may result from the project.

(2) The amount of organic material that may be diverted from landfills as a result of the project.

(3) If, and how, the project may benefit disadvantaged communities.

(4) For a grant awarded for an anaerobic digestion project, if, and how, the project maximizes resource recovery, including the production of clean energy or low-carbon or carbon negative transportation fuels.

(5) Project readiness and permitting that the project may require.

(6) Air and water quality benefits that the project may provide.

(e) To the degree that funds are available, the department may provide larger grant awards for large-scale regional integrated projects that provide cost-effective organic waste diversion and maximize environmental benefits.

SEC. 14. Section 399.20.3 is added to the Public Utilities Code, to read: 399.20.3. (a) For purposes of this section, the following definitions apply:

(1) “Bioenergy” has the same meaning as set forth in paragraph (4) of subdivision (f) of Section 399.20.

(2) “Tier 1 high hazard zone” includes areas where wildlife and falling trees threaten power lines, roads, and other evacuation corridors, critical community infrastructure, or other existing structures, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation

of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(3) “Tier 2 high hazard zone” includes watersheds that have significant tree mortality combined with community and natural resource assets, as designated by the Department of Forestry and Fire Protection pursuant to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(b) In addition to the requirements of subdivision (f) of Section 399.20, by December 1, 2016, electrical corporations shall collectively procure, through financial commitments of five years, their proportionate share of 125 megawatts of cumulative rated generating capacity from existing bioenergy projects that commenced operations prior to June 1, 2013. At least 80 percent of the feedstock of an eligible facility, on an annual basis, shall be a byproduct of sustainable forestry management, which includes removal of dead and dying trees from Tier 1 and Tier 2 high hazard zones and is not that from lands that have been clear cut. At least 60 percent of this feedstock shall be from Tier 1 and Tier 2 high hazard zones.

(c) (1) For each electrical corporation, the commission shall allocate its proportionate share of the 125 megawatts based on the ratio of the electrical corporation’s peak demand to the total statewide peak demand.

(2) Procurement by an electrical corporation of generation capacity pursuant to a contract under the commission’s Resolution E-4770 that is in excess of the requirement of that electrical corporation under that resolution shall count towards meeting the electrical corporation’s proportionate share allocated pursuant to paragraph (1).

(d) The commission may direct each electrical corporation to develop standard contract terms and conditions that reflect the operational characteristics of the bioenergy projects and to provide a streamlined contracting process or may require the electrical corporations to use the mechanism established pursuant to the commission’s Resolution E-4770 to meet the requirements of subdivision (c). The procurement pursuant to the developed standard contract shall occur on an expedited basis due to the Proclamation of a State of Emergency on Tree Mortality declared by the Governor on October 30, 2015.

(e) A local publicly owned electric utility serving more than 100,000 customers shall procure its proportionate share, based on the ratio of the utility’s peak demand to the total statewide peak demand, of 125 megawatts of cumulative rated capacity from existing bioenergy projects described in subdivision (b) subject to terms of at least five years.

(f) The commission shall ensure that the costs of any contract procured by an electrical corporation to satisfy the requirements of this section are recoverable from all customers on a nonbypassable basis.

(g) The Procurement Review Group within the commission shall advise the commission on the cost of the generation procured pursuant to this section and its impact on ratepayers.

SEC. 15. The State Air Resources Board, in consultation with the Natural Resources Agency and the Department of Forestry and Fire Protection, shall do both of the following:

(a) No later than December 30, 2018, complete a standardized greenhouse gas emissions inventory for natural and working lands.

(b) (1) No later than December 30, 2018, complete a standardized accounting framework for forests that supports statewide greenhouse gas emissions reduction goals and investments of moneys from the Greenhouse Gas Reduction Fund, established pursuant to Section 16428.8 of the Government Code.

(2) The accounting framework shall include a statewide baseline projection of business-as-usual emissions and carbon sequestration and shall consider state, regional, and project scales of accounting based on forest type and other ecological indicators.

SEC. 16. Notwithstanding subdivision (c) of Section 13264 of, subdivision (f) of Section 13268 of, subdivision (k) of Section 13350 of, and paragraph (2) of subdivision (n) of Section 13385 of, the Water Code, one million four hundred thousand dollars (\$1,400,000) is hereby appropriated in fiscal year 2016–17 to the State Water Resources Control Board from the moneys deposited into, and separately accounted for in, the Waste Discharge Permit Fund pursuant to the balance of penalty revenues generated by the imposition of liabilities pursuant to subdivision (c) of Section 13264 of, subdivision (f) of Section 13268 of, subdivision (k) of Section 13350 of, and paragraph (2) of subdivision (n) of Section 13385 of, the Water Code. The funds appropriated in this section are available to the State Water Resources Control Board to provide grants or contracts for the development of planning, environmental, and design documents in furtherance of projects for eliminating public health and safety risks from wastewater, and agricultural and other drainage of urbanized areas for tributaries to the Salton Sea.

SEC. 17. Section 13.5 of this bill incorporates amendments to Section 42999 of the Public Resources Code proposed by both this bill and Senate Bill 970. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2017, but this bill becomes operative first, (2) each bill amends Section 42999 of the Public Resources Code, and (3) this bill is enacted after Senate Bill 970, in which case Section 42999 of the Public Resources Code, as amended by Section 13 of this bill, shall remain operative only until the operative date of Senate Bill 970, at which time Section 13.5 of this bill shall become operative.

SEC. 18. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act or because costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the

definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 19. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

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