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OFFICIAL TITLE AND SUMMARY ★ ★ ★

Prepared by the Attorney General

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**ALTERNATIVE ENERGY. RESEARCH, PRODUCTION,  
INCENTIVES. TAX ON CALIFORNIA OIL PRODUCERS.  
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

- Establishes \$4 billion program with goal to reduce petroleum consumption by 25%, with research and production incentives for alternative energy, alternative energy vehicles, energy efficient technologies, and for education and training.
- Funded by tax of 1.5% to 6% (depending on oil price per barrel) on producers of oil extracted in California. Prohibits producers from passing tax to consumers.
- Program administered by new California Energy Alternatives Program Authority.
- Prohibits changing tax while indebtedness remains.
- Revenue excluded from appropriation limits and minimum education funding (Proposition 98) calculations.

**Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- New state revenues—depending on the interpretation of the measure—from about \$225 million to \$485 million annually from the imposition of a severance tax on oil production, to be used to fund \$4 billion in new alternative energy programs over time.
- Potential reductions of state revenues from oil production on state lands of up to \$15 million annually; reductions of state corporate taxes paid by oil producers of up to \$10 million annually; local property tax reductions of a few million dollars annually; and potential reductions in fuel-related excise and sales taxes.

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ANALYSIS BY THE LEGISLATIVE ANALYST

**BACKGROUND**

**California Oil Production.** In 2005, California's estimated oil production (excluding federal offshore production) totaled 230 million barrels of oil—an average of 630,000 barrels per day. California's 2005 oil production represents approximately 12 percent of U.S. production, making California the third largest oil-producing state, behind Texas and Alaska. Oil production in California peaked in 1985 and has declined, on average, by 2 percent to 3 percent per year since then. In 2005, California oil production supplied approximately 37 percent of the state's oil demand, while Alaska production supplied approximately 21 percent, and foreign oil supplied about 42 percent.

Virtually all of the oil produced in California is delivered to California refineries. In 2005, the total supply of oil delivered to oil refineries in California

was 674 million barrels, including oil produced in California as well as outside the state. Of the total oil refined in California, approximately 67 percent goes to gasoline and diesel (transportation fuels) production.

**Oil-Related Taxation in California.** Oil producers pay the state corporate income tax on profits earned in California. Oil producers also pay a regulatory fee to the Department of Conservation (which regulates the production of oil in the state) that is assessed on production, with the exception of production in federal offshore waters. This regulatory fee is used to fund a program that, among other activities, oversees the drilling, operation, and maintenance of oil wells in California. Currently, producers pay a fee of 6.2 cents per barrel of oil produced, which will generate total revenues of \$14 million in 2006–07. Additionally, property owners in California pay local property taxes on the value of both oil extraction equipment (such as drills and pipelines) as well as the value of the recoverable oil in the ground.

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## PROPOSAL

### *Severance Tax on Oil Production in California.*

Beginning in January 2007, the measure would impose a severance tax on oil production in California to generate revenues to fund \$4 billion in alternative energy programs over time. (The term “severance tax” is commonly used to describe a tax on the production of any mineral or product taken from the ground, including oil.) The measure defines “producers,” who are required to pay the tax, broadly to include any person who extracts oil from the ground or water, owns or manages an oil well, or owns a royalty interest in oil.

The severance tax would not apply to federal offshore production beyond three miles from the coast. The measure is unclear as to whether the severance tax would apply to oil production on state-owned lands (which includes offshore production within three miles of the coast) or production on federal lands in the state. Additionally, the severance tax would not apply to oil wells that produce less than ten barrels of oil per day, unless the price of oil at the well head was above \$50 per barrel. At current prices and levels of production, the tax would apply to about 230 million barrels of oil produced in the state annually if state and federal lands are included, or about 200 million barrels of oil production annually if they are not included.

**Tax Rate Structure.** The measure states that the tax would be “applied to all portions of the gross value of each barrel of oil severed as follows:”

- 1.5 percent of the gross value of oil from \$10 to \$25 per barrel;
- 3.0 percent of the gross value of oil from \$25.01 to \$40 per barrel;
- 4.5 percent of the gross value of oil from \$40.01 to \$60 per barrel; and
- 6.0 percent of the gross value of oil from \$60.01 per barrel and above.

The wording of the measure regarding the application of the tax rates could be interpreted in two different ways. On one hand, it could be interpreted such that the tax would be applied on a *single rate* basis on the *full* gross value of oil per barrel. For example, if the gross value is \$70 per barrel, the tax would be applied at a rate of 6.0 percent on

the full \$70—yielding a tax of \$4.20 per barrel. On the other hand, it could be interpreted to apply on a *marginal rate* basis similar to the income tax. For example, if the gross value is \$70 per barrel, the first \$10 is not taxed, the value from \$10 to \$25 is taxed at 1.5 percent, and so on—yielding a tax of \$2.17 per barrel.

In general, for a given period of time, the single rate interpretation would generate twice as much tax revenue as would the marginal rate interpretation. The issue of the application of the tax would presumably be resolved by regulations adopted by the California State Board of Equalization (BOE) and interpretation by the courts.

**Passing Along the Cost of the Tax to Consumers.** The measure states that producers would not be allowed to pass on the cost of this severance tax to consumers through increased costs for oil, gasoline, or diesel fuel. The BOE is charged with enforcing this prohibition against passing on the cost of the tax. While it may be difficult to *administratively* enforce this provision (due to the many factors that determine oil prices), economic factors may also limit the extent to which the severance tax is passed along to consumers. For example, the global market for oil means that California oil refiners have many options for purchasing crude oil. As a result, oil refiners facing higher-priced oil from California producers could, at some point, find it cost-effective to purchase additional oil from non-California suppliers, whose oil would not be subject to this severance tax.

**Term of the Tax.** The measure directs that the new California Energy Alternatives Program Authority (Authority), discussed below, shall spend \$4 billion for specified purposes within ten years of adopting strategic plans to implement the measure. The revenues are to be used for new spending (that is, they cannot be used to replace current spending). Under the measure, the Authority has the ability to raise program funds in advance of collecting severance tax revenues by selling bonds that would be paid back with future severance tax revenues.

The severance tax would expire once the Authority has spent \$4 billion and any bonds issued by the Authority are paid off. The length of time that the tax would be in effect will depend on several factors, including the interpretation of the tax rate, the future price and production of oil, and

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decisions about using bonds. Because the measure directs the new authority to spend \$4 billion within ten years, the tax will be in effect at least long enough to generate this amount of revenue and longer if bonds are issued.

Depending on these variables, the term of the tax would range from less than ten years to several decades. For example, the shorter period would result under the single tax rate and/or higher oil prices and production levels. Alternatively, a longer period would result under the marginal tax rate and/or lower oil prices and production.

***Tax Revenues to be Deposited in New Special Fund.***

The proceeds of the severance tax would be deposited in a new fund created by the measure, the California Energy Independence Fund. These revenues would not be eligible for loan or transfer to the state's General Fund and would be continuously appropriated (and thus, not subject to the annual state budget appropriation process).

***Reorganized State Entity to Spend the Tax Revenues.***

The measure would reorganize an existing body in state government, the California Alternative Energy and Advanced Transportation Financing Authority, into a new California Energy Alternatives Program Authority (Authority). This reorganized authority would be governed by a board made up of nine members, including the Secretary for Environmental Protection, the Chair of the State Energy Resources Conservation and Development Commission, the Treasurer, and six members of the public who have specific program expertise, including: economics, public health, venture capital, energy efficiency, entrepreneurship, and consumer advocacy. The Authority is required to develop strategic plans and award funds to encourage the development and use of alternative energy technologies. The board would appoint a staff to administer various programs specified in the measure.

One of the stated *goals* of the measure, to be achieved through the various programs funded by it, is to reduce the use of petroleum in California by 25 percent from 2005 levels by 2017. The *actual* reduction would depend on the extent to which the measure was successful in developing and promoting—and consumers and producers used—new technologies and energy efficient practices.

***Allocation of Funds.*** The funds generated from the severance tax, as well as any bonding against future

severance tax revenues, would be allocated as follows, after first covering debt-service costs and expenses to collect the severance tax:

• ***Gasoline and Diesel Use Reduction Account (57.50 Percent)***—for incentives (for example, consumer loans, grants, and subsidies) for the purchase of alternative fuel vehicles, incentives for producers to supply alternative fuels, incentives for the production of alternative fuel infrastructure (for example, fueling stations), and grants and loans for private research into alternative fuels and alternative fuel vehicles.

• ***Research and Innovation Acceleration Account (26.75 Percent)***—for grants to California universities to improve the economic viability and accelerate the commercialization of renewable energy technologies and energy efficiency technologies.

• ***Commercialization Acceleration Account (9.75 Percent)***—for incentives to fund the start-up costs and accelerate the production and distribution of petroleum reduction, renewable energy, energy efficiency, and alternative fuel technologies and products.

• ***Public Education and Administration Account (3.50 Percent)***—for public education campaigns, oil market monitoring, and general administration. Of the 3.5 percent, at least 28.5 percent must be spent for public education, leaving a maximum of 71.5 percent of the 3.5 percent (or roughly 2.5 percent of total revenues) for the Authority's administrative costs.

• ***Vocational Training Account (2.50 Percent)***—for job training at community colleges to train students to work with new alternative energy technologies.

## FISCAL EFFECTS

***New State Revenues to Be Used for Dedicated Purposes.*** Our estimates below are based on 2005 oil production levels and the average price of oil for the first six months of 2006. The severance tax would rise from about \$225 million to \$485 million annually. The level of revenue generated would depend both on (1) whether the tax was interpreted using the marginal rate interpretation or the single rate interpretation and (2) whether oil production on state and federal lands is taxed. However, *actual* revenues collected under the measure will depend

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on both future oil prices and oil production in the state. As these variables are difficult to predict, there is uncertainty as to the level of revenue collections.

**State and Local Administrative Costs to Implement the Measure.** Because programs of the size and type to be overseen by the Authority have not been undertaken before in the area of transportation fuels, the administrative costs to the Authority to carry out the measure are unknown. Under the provisions of the measure, up to 2.5 percent of revenues in the new fund would be available to the Authority for its general administration costs. This would on average set aside from about \$5 million to \$12 million annually for administration. The amount of administrative funds available would depend both on (1) whether the tax was interpreted using the marginal rate interpretation or the single rate interpretation and (2) whether oil production on state and federal lands is taxed.

Costs to BOE to collect the severance tax and administrative costs associated with the issuance and repayment of bonds by the Treasurer's Office are not counted as part of the Authority's administration budget and are to be paid from the severance tax revenues. Additionally, in oil-producing counties, local administrative costs would increase by an unknown but probably minor amount, due to increased reassessment activity by local property tax assessors to account for the effects of the severance tax on oil-related property values.

**Reduction in Local Property Tax Revenues.** Local property taxes paid on oil reserves would decline under the measure relative to what they otherwise would have been, to the extent that the imposition of the severance tax reduces the value of oil reserves in the ground and its assessed property value for tax purposes. Although the exact size of this impact would depend on future oil prices, which determine both the severance tax rate and the value of oil reserves, it would likely not exceed a few million dollars statewide annually.

**Reduction in State Income Tax Revenues.** Oil producers would be able to deduct the severance tax from earned income, thus reducing their state income tax liability under the personal income tax or corporation tax. The extent to which the measure would reduce state income taxes paid by oil producers would depend on

various factors, including whether or not an oil producer has taxable income in any given year, the amount of such income that is apportioned to California, and the tax rate applied to such income. We estimate that the reduction would likely not exceed \$10 million statewide annually.

**Potential Reduction in State Revenues From Oil Production on State Lands.** The state receives a portion of the revenues from oil production on state lands, including oil produced within three miles of the coast. If the measure is interpreted to apply to production on these state lands, then the severance tax would reduce state General Fund revenues by \$7 million to \$15 million annually, depending on whether the measure is interpreted using the marginal rate or the single rate.

**Potential Reductions in Fuel Excise Tax and Sales Tax Revenues.** The measure could change both the amount and mix of fuels used in California, and thus excise and sales tax revenues associated with them. For example, to the extent that the programs funded by the measure are successful in reducing the use of oil for transportation fuels, it would reduce to an unknown extent the amount of gasoline and diesel excise taxes paid to the state and the sales and use taxes paid to the state and local governments. These reductions would be partially offset by increased taxes paid on alternative fuels, such as ethanol, to the extent that the measure results in their increased use.

**Potential Indirect Impacts on the Economy.** In addition to the direct impacts of the measure, there are potential indirect effects of the measure that could affect the level of economic activity in the state.

On one hand, by increasing the cost of oil production, the severance tax could reduce production, reduce investment in new technologies to expand production, and/or modestly increase the cost of oil products to Californians. This could have a negative impact on the state's economy.

On the other hand, using revenues from the severance tax to invest in new technologies may spur economic development in California. This would occur to the extent that new technologies supported by the measure are developed and/or manufactured in the state. This could have a positive impact on the state's economy.

Taken together, these economic factors could have mixed impacts on state and local tax revenues.

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ARGUMENT IN FAVOR OF PROPOSITION 87

YES ON 87: MAKE OIL COMPANIES PAY THEIR FAIR SHARE—FOR CLEANER ENERGY.

Had enough of oil companies charging outrageous prices and making obscene profits?

Had enough polluted air, asthma, lung disease, and cancer?

Had enough of oil companies funding opposition to Cleaner, Cheaper Energy? Enough is enough.

It's time to make oil companies pay their fair share so we can use cheaper alternative fuels and reduce air pollution that causes lung disease and cancer.

**VOTING YES ON PROPOSITION 87 WILL MAKE OIL COMPANIES PAY THEIR FAIR SHARE.**

In Louisiana, Alaska, and even Texas, oil companies pay billions in oil drilling fees, but they pay almost nothing in California. California takes in more revenue from *hunting and fishing licenses* than it does from oil drilling fees.

*Under Prop. 87, the oil companies will finally pay us the same level of fees they pay in other states.*

They can afford it. The oil companies opposing this initiative made \$78 billion in profits last year. Their profits are so high that EXXON gave its CEO Lee Raymond a \$400 million retirement payout. Enough is enough.

**PROP. 87: NO COST TO CONSUMERS. OIL COMPANIES PAY.**

*California's Attorney General has confirmed that Prop. 87 makes it illegal for oil companies to raise gas prices to pass along the cost to us.*

If they do, they'll break the law and could be prosecuted.

The U.S. Supreme Court has already ruled that states can prohibit oil companies from passing fees like this on to consumers. Just look at the other states that have oil drilling fees. They all pay less for gas than California.

*That's why oil companies are spending millions to defeat Prop. 87: because they know it's illegal to pass the cost on to us.*

**PROP. 87: CLEANER ENERGY AND CLEANER AIR.**

Prop. 87 makes oil companies pay for cleaner energy.

It provides for cash rebates to consumers who buy cleaner, alternative fuel vehicles and incentives for more renewable energy like solar and wind power.

It will create thousands of new jobs and economic growth.

It will reduce our dependence on oil from Saudi Arabia and Iraq—which provide 47% of California's imported oil.

*Voting YES on Prop. 87 will reduce air pollution in California.*

Pollution from cars and trucks is making us sick. Every year, cars put tons of lung-damaging smog and soot into the air that send children to the hospital and cause asthma attacks.

That's why the Coalition for Clean Air and California doctors and nurses **ALL SUPPORT** Proposition 87.

**PROP. 87: NO NEW BUREAUCRACY.**

Prop. 87 uses an existing state agency and requires strict enforcement and accountability through independent audits, public hearings, and annual progress reports.

Nobel-prize-winning scientists, California environmental and consumer groups, educators, labor and agriculture groups all agree. It's time we take control of our future.

For Cleaner Air—For Alternative Energy Choices—For Less Dependence on Foreign Oil . . . Finally, Fairness.

**MAKE OIL COMPANIES PAY THEIR FAIR SHARE.**

**VOTE YES ON 87. FOR CLEANER ENERGY.**

[www.YESon87.com](http://www.YESon87.com)

**LAURA KEEGAN BOUDREAU, CEO**  
American Lung Association of California

**WINSTON HICKOX, Former Secretary**  
California Environmental Protection Agency

**JAMIE COURT, President**  
Foundation for Taxpayer and Consumer Rights

REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 87

*"The sponsors' contention that Proposition 87 would not cause higher gas prices is incorrect."*—William Hamm, Ph.D.

Former Legislative Analyst, State of California

*"Proposition 87 attempts a worthy goal, but does so in a counterproductive and costly manner. It would shrink California's oil supply, increase dependence on foreign oil, and result in higher gasoline prices."*—Professor Philip Romero, Ph.D., Former Chief Economist, California Governor's Office

Proposition 87 is *not* a tax on oil company profits—as proponents would like you to believe. It's a \$4 BILLION TAX on California oil production. It would make California's oil the *highest taxed in the nation*, by far. Analysts report it would decrease state oil production. Replacement oil would have to be imported from the Middle East and elsewhere. The added costs of transporting and refining imported oil would be lawfully passed on to consumers at the gas pump. *Do we really want higher gas prices?*

And, did proponents really claim Proposition 87 is not new bureaucracy? *It's the very definition of bureaucracy, with an appalling lack of accountability:*

- 50 political appointees.
  - Unlimited staff.
  - The power to spend \$4 billion outside the state budget review process.
  - No requirement they spend all those new taxes in California, or even in the U.S.
  - Special exemptions from laws designed to protect taxpayers.
  - Special exemption from California's education funding guarantee, robbing schools of *their* fair share.
- Proposition 87 also reduces revenues available for fire protection and public safety.

Organizations representing 85,000 public safety officials urge Californians to: **VOTE NO** on 87.

**KEVIN R. NIDA, President**  
California State Firefighters' Association

**RAY HOLDSWORTH, Past Chair**  
California Chamber of Commerce

**ALLAN ZAREMBERG, President**  
Californians Against Higher Taxes

## ARGUMENT AGAINST PROPOSITION 87

AREN'T GAS PRICES HIGH ENOUGH ALREADY?  
DO WE REALLY WANT TO INCREASE OIL TAXES  
BY ANOTHER \$4 BILLION?

We all agree we need to advance alternative energy. But, Proposition 87 is *not* the way to get there. Increasing California oil taxes by \$4 BILLION to fund a new state bureaucracy—that isn't even required to produce results—is a recipe for *waste*, not progress.

It's also the road to more problems . . .

HIGHER TAXES ON DOMESTIC OIL = MORE  
DEPENDENCE ON FOREIGN OIL.

Economists report that taxing California oil production will reduce in-state oil production and increase our dependence on foreign oil. Oil from the Middle East and other countries costs more to get here and costs more to refine once here.

HIGHER OIL TAXES, HIGHER GAS PRICES.

Prop. 87's sponsors *claim* it won't increase gas prices. Are voters supposed to believe a \$4 BILLION tax increase on California oil won't impact gas prices at the pump?

PROP. 87 CREATES A NEW STATE BUREAUCRACY  
WITH 50 POLITICAL APPOINTEES.

It lets them spend taxes outside the normal checks and balances that govern other state agencies, outside the state budget review process, and exempt from important laws and taxpayer safeguards that apply to other agencies.

PROP. 87 LETS THE NEW BUREAUCRACY KEEP  
SPENDING EVEN IF THEY'RE NOT PRODUCING  
RESULTS.

It lets the political appointees tax and spend, year after year after year, even if they're making absolutely no progress reducing oil consumption or advancing alternative energy use.

PROP. 87 ROBS SCHOOLS OF THEIR FAIR SHARE  
OF NEW REVENUES.

One of the most important protections our schools have is a constitutional guarantee that a portion of new state tax revenues be spent in the classroom. But, Prop. 87 excludes

itself from that requirement. One of California's leading education finance experts and the former Secretary of Education reports: "*At a time when California school funding is already below the national average, Prop. 87 could deny schools their fair share of up to \$1.9 billion in new revenues over the next 10 years.*"

PROP. 87 WOULD REDUCE TAX REVENUES USED  
FOR EDUCATION, PUBLIC SAFETY, HEALTH CARE,  
AND TRANSPORTATION NEEDS.

Prop. 87 would reduce general fund and property tax revenues. Read the Legislative Analyst's report in your voter pamphlet.

HIGHER GAS PRICES HURT FAMILIES, SMALL  
BUSINESSES, AND SENIORS.

Everyone bears the cost of high gas prices. The last thing we need is a ballot proposition that further drives up oil prices.

EVERYONE AGREES WE NEED TO ADVANCE  
ALTERNATIVE ENERGY, BUT PROP. 87 IS *NOT* THE  
WAY TO GET THERE.

"*Gasoline prices in California are high enough already. Proposition 87 would just add insult to injury. This \$4 billion oil tax would result in even higher gas prices at the pump. We recommend drivers vote: NO on 87.*"

—Thomas V. McKernan, President and CEO,  
Automobile Club of Southern California

Join more than 150 organizations, taxpayer groups, consumers, California businesses, labor, parents, educators, seniors, and public safety officials . . .

VOTE NO on 87. *It's a recipe for waste, not progress.*

**LARRY MCCARTHY**, President  
California Taxpayers' Association

**DANIEL CUNNINGHAM**, President  
California Small Business Alliance

**MARIAN BERGESON**, Past President  
California School Boards Association

## REBUTTAL TO ARGUMENT AGAINST PROPOSITION 87

*DO YOU TRUST THE OIL COMPANIES?*

Oil companies are paying for the multimillion dollar misinformation campaign *against* Prop. 87.

See for yourself: California State Website: [www.cal-access.ss.ca.gov](http://www.cal-access.ss.ca.gov)

Notice the oil companies didn't sign the statement at the top of this page? What else are they hiding? THE FACTS:

- **PROP. 87 MAKES OIL COMPANIES PAY THEIR FAIR SHARE.**  
Oil companies pay billions in drilling fees in New Mexico, Alaska, Louisiana, and *even* Texas. California is the only state where the oil companies do not pay similar drilling fees.
- **PROP. 87 MAKES IT ILLEGAL FOR OIL COMPANIES TO PASS THE COST ON TO CONSUMERS BY RAISING GAS PRICES.** *Official Initiative Language, § 42004(c)*  
Think about it: If the oil companies could really pass the cost on to us, why would they be spending millions to defeat Prop. 87?
- **PROP. 87 MEANS CLEANER AIR, LESS ASTHMA.**  
That's why Prop. 87 is endorsed by the American Lung Association.
- **PROP. 87 MEANS MORE ALTERNATIVE FUELS AND**

*LESS DEPENDENCE ON FOREIGN OIL.*

Almost half of California's imported oil comes from Saudi Arabia and Iraq. Prop. 87 would reduce our dependence on foreign oil. That's why former Secretary of State Madeleine Albright endorses Prop. 87.

- **PROP. 87 HAS NO NEW BUREAUCRACY.**

Prop. 87 requires independent audits, strict limits on administrative spending, open meetings with accountability, and oversight by public health and energy experts—not politicians. *Official Initiative Language, § 26004(a)*

**DON'T BE FOOLED BY THE OIL COMPANIES.**

**ENOUGH IS ENOUGH. MAKE THE OIL COMPANIES  
PAY THEIR FAIR SHARE.**

**VOTE YES ON 87. FOR CLEANER, CHEAPER  
ENERGY.**

**DR. MARIO MOLINA**, Nobel Prize in Chemistry  
University of California, San Diego

**TIM CARMICHAEL**, President, Coalition for Clean Air

**JAMIE COURT**, President  
Foundation for Taxpayer and Consumer Rights

are to statutes as they existed on December 31, 2005.

SEC. 13. Severability

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SEC. 14. Conflicting Measures

(a) This measure is intended to be comprehensive. It is the intent of the People that in the event that this measure and another initiative measure or measures relating to the same subject shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

SEC. 15. Conformity with State Constitution

Section 14 is added to Article XIII B of the California Constitution, to read:

*SEC. 14. (a) "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Tobacco Tax Act of 2006. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Tobacco Tax of 2006 Trust Fund.*

*(b) The tax created by the Tobacco Tax Act of 2006 and the revenue derived therefrom shall not be considered General Fund revenues for the purposes of Section 8 of Article XVI.*

*(c) Distribution of moneys in the Tobacco Tax of 2006 Trust Fund or any of the Accounts or Sub-Accounts created therein, shall be made pursuant to the Tobacco Tax Act of 2006 notwithstanding any other provision of this Constitution.*

## PROPOSITION 87

This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds provisions to the California Constitution, amends, repeals, and adds sections to the Public Resources Code, and adds sections to the Revenue and Taxation Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### THE CLEAN ALTERNATIVE ENERGY ACT

##### SECTION 1. TITLE.

This measure shall be known as the "Clean Alternative Energy Act."

##### SEC. 2. FINDINGS AND DECLARATIONS.

The people of California find and declare the following:

A. Californians are facing a severe energy crisis. In 2005, the price of oil nearly doubled and the cost of a gallon of gas soared to over \$3 in some areas, causing ordinary consumers extreme financial distress while the big oil companies reported record profits.

B. Our demand for energy is rising rapidly while our energy supply shrinks, and we continue to grow more dependent on foreign oil.

C. Our excessive dependence on fossil fuels is imposing economic, environmental, and social costs. High-polluting vehicles like diesel buses and trucks create significant air pollution that is threatening the health of our families and children with lung diseases and asthma. They can and should be replaced by clean alternative fuel vehicles.

D. California is the only major oil-producing state in the country that does not impose a comparable fee on oil produced at its wells. California's

oil producers are enjoying windfall profits at the expense of California consumers and taxpayers.

E. An assessment paid by California's big oil companies on their excess profits is a proven way to reclaim some of those revenues without raising prices for consumers. California is the only one of the nation's top five oil-producing states without a comparable assessment on oil producers. These assessments have proven to be impossible for the big oil companies to "pass along" to consumers in the form of higher gas prices at the pump because oil prices are set on the global market without regard to regional or local costs or assessments.

F. Consumers should be protected from any attempt at price gouging by big oil companies if they try to pass along their assessment costs by increasing gas prices at the pump.

G. The proceeds from the assessment on California oil companies' excess profits should be used to reduce the consumption of petroleum, foster the development and use of clean alternative fuels, clean alternative fuel vehicles, and renewable energy technologies, and improve energy efficiency in California.

H. A clean, environmentally-sound energy economy with greatly improved energy efficiency is a vital, pro-business goal. Given that fossil-fuel-reserves are finite, and that the global appetite for energy is growing, the only question is when—not if—we will make our economy significantly more energy efficient and switch to renewable energies and get more work out of less energy. But politicians in Washington have failed to offer visionary leadership for energy independence or to capture the economic rewards of early action in this critical technology sector.

I. The United States' dependence on foreign oil is a serious danger to U.S. national security, hampers U.S. foreign policy, and is a persistent threat to the U.S. economy. Because 60% of the petroleum the U.S. currently uses comes from foreign imports, and because California is the largest consumer of petroleum products, we must do our part to address these national problems.

J. Further delay in beginning the transition to clean, efficient, and renewable energy puts California and the U.S. at risk for economic upheaval, and cedes the opportunity for new energy technological and industrial leadership to other more pro-active countries, thereby perpetuating our dependence on foreign energy sources.

K. The transition to a renewable energy economy creates an opportunity for California to profit economically, socially, and environmentally. Clean alternative energy technologies like solar, wind, and hydrogen, and clean alternative fuel vehicles like hybrids and bio-fueled cars and trucks are available today and can help reduce our dependence on oil and gasoline.

L. California's history of technological innovation and entrepreneurship, international leadership in promoting energy efficiency, abundance of world-leading academic institutions, national leadership in environmental stewardship, and position as one of the United States' largest energy consumers uniquely qualifies us to lead the way into the renewable energy era.

##### SEC. 3. PURPOSE AND INTENT.

It is the intent of the people of California in enacting this measure to:

A. Invest approximately \$4 billion in projects and programs designed to enhance California's energy independence and to reduce our use of petroleum, including funding for: research, facility, and training grants to California's universities; vocational training grants to community colleges; and buydowns, loans, loan guarantees, and credits to accelerate the development and deployment of renewable energy technologies, energy efficiency technologies, clean alternative fuels, and clean alternative fuel vehicles;

B. Provide incentives to ordinary Californians to make clean alternative fuel vehicles and clean alternative fuels as affordable and easy to obtain as gasoline and diesel fuels and vehicles. Incentive programs like this have already succeeded in breaking other countries' oil dependence, and they can easily work in California today;

C. Create new industries, technologies, and jobs focused on renewable energy, energy efficiency, clean alternative fuels, and clean alternative fuel vehicles, expand our state's wealth, and ensure that any loan proceeds, royalties, or license fees the state receives as a result of the funding are reinvested in this program;

D. Reduce our dependence on foreign oil by developing renewable



sources of energy and clean alternative fuels, increasing their usage here in California, and improving our energy efficiency;

E. Improve our environment, public health, and quality of life by reducing emissions of carbon dioxide and other global warming gases;

F. Reduce by 25% our use of petroleum transportation fuels in California from the 2005 level of 16 billion gallons annually to begin conserving four billion gallons annually by 2017, and conserve a total of 10 billion gallons over ten years between 2007 and 2017;

G. Invest in energy education in California so that California workers can take advantage of the job opportunities that will open up for those trained in emerging energy systems, technologies, and management methods;

H. Make full use of California's internal resources and its capability for innovation to develop new ways to meet four of the state's important long-term goals: the Renewable Portfolio Standard, Control of Greenhouse Gas Emissions from Motor Vehicles, the Governor's Greenhouse Gas targets, and the petroleum reduction goals set forth in this Act;

I. Impose an assessment on oil extracted from California's oil wells to ensure that California consumers' future energy needs are met without raising gasoline prices for consumers today. By ensuring that oil producers in California finally pay their fair share, we will create a dedicated funding stream of approximately \$4 billion to secure California's future energy independence;

J. Ensure that California oil companies fully comply with the excess profits assessment and protect consumers by prohibiting the oil companies, consistent with U.S. Supreme Court precedent, from attempting to gouge consumers by using the assessment as a pretext to raise prices on oil, gasoline, and diesel fuels in California; and

K. Ensure that the revenues from the new assessment on California oil producers are invested wisely in the most promising research and technologies, and require mandatory independent audits and annual progress reports so that the leaders of this project are accountable to the people of California.

SEC. 4. Article XXXVI is added to the California Constitution, to read:

*SECTION 1. There is hereby established in state government the Clean Alternative Energy Program.*

*SEC. 2. The Clean Alternative Energy Program shall be administered by the California Energy Alternatives Program Authority, which is established in Division 16 (commencing with Section 26000) of the Public Resources Code, and shall be funded by the California Energy Independence Fund Assessment, which is established in Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code.*

*SEC. 3. In addition to the powers set forth in Division 16 (commencing with Section 26000) of the Public Resources Code, the California Energy Alternatives Program Authority shall have the power, notwithstanding Article XVI, any other article of this Constitution, or any other provision of law, to use revenues produced by the California Energy Independence Fund Assessment to provide incentives including, but not limited to, grants, loans, loan guarantees, buydowns, and credits to universities, community colleges, research institutions, individuals, companies, associations, partnerships, and corporations pursuant to the Clean Alternative Energy Act or to secure the repayment of any bonds, bond anticipation notes, and other obligations and indebtedness of the authority issued pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code, and any other costs associated with such bonds, that are used to fund such incentives.*

*SEC. 4. (a) Revenues produced by the California Energy Independence Fund Assessment shall be deposited in the California Energy Independence Fund, which is hereby created as a special fund in the State Treasury, to be held in trust for the purposes of the Clean Alternative Energy Act. Moneys held in the California Energy Independence Fund are hereby continuously appropriated, without regard to fiscal year, for those purposes alone.*

*(b) The California Energy Alternatives Program Authority shall be authorized to expend four billion dollars (\$4,000,000,000) from the California Energy Independence Fund for the purposes of the Clean Alternative Energy Act, as provided in subdivision (d) of Section 26045 of the Public Resources Code.*

*(c) The proceeds of any bonds, bond anticipation notes, and other*

*obligations and indebtedness of the authority issued pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code, the revenues produced by any grants or loans made pursuant to the Clean Alternative Energy Act, and any royalties or license fees generated pursuant to the Clean Alternative Energy Act shall be deposited in the California Energy Independence Fund and are hereby continuously appropriated, without regard to fiscal year, for the purposes of the Clean Alternative Energy Act alone.*

*(d) The moneys in the California Energy Independence Fund may not be used for any purpose or program other than the purposes or programs authorized by the Clean Alternative Energy Act, and may not be loaned to the state General Fund, or to any other fund of the state, or to any fund of a county, or any other entity, or borrowed by the Legislature, or any other state or local agency, for any purpose other than the purposes authorized by the Clean Alternative Energy Act.*

*(e) Notwithstanding any other provision of this Constitution, revenues generated by the California Energy Independence Fund Assessment shall not be deemed to be "revenues" or "taxes" for purposes of computing any state expenditure or appropriation limit that is enacted on or after June 6, 2006, nor shall their expenditure or appropriation be subject to any reduction or limitation imposed pursuant to any provision enacted after that date.*

SEC. 5. Section 14 is added to Article XIII B of the California Constitution, to read:

*SEC. 14. (a) "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the California Energy Independence Fund, which is established in subdivision (a) of Section 4 of Article XXXVI. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the California Energy Independence Fund.*

*(b) Revenues generated by the California Energy Independence Fund Assessment shall not be considered General Fund revenues for the purposes of Section 8 and Section 8.5 of Article XVI.*

SEC. 6. Section 26004 of the Public Resources Code is amended to read:

*26004. (a) There is in the state government the California Alternative Energy and Advanced Transportation Financing California Energy Alternatives Program Authority. The authority constitutes a public instrumentality and the exercise by the authority of powers conferred by this division and Article XXXVI of the California Constitution is the performance of an essential public function.*

*(b) The authority shall consist of five nine members, as follows:*

*(1) The Secretary for Environmental Protection The Director of Finance.*

*(2) The Chairperson of the State Energy Resources Conservation and Development Commission.*

*(3) The President of the Public Utilities Commission. The Treasurer.*

*(4) The Controller. A Californian who has expertise in economics, energy markets, and energy efficiency technologies, appointed by the Governor.*

*(5) The Treasurer, who shall serve as the chairperson of the authority. A Californian who has expertise, and who has demonstrated leadership, in public health, appointed by the Governor.*

*(6) A Californian who has expertise in finance, start-ups, and venture capital, preferably with experience in enterprises comparable in scale and purpose to those that would be eligible for funding pursuant to the Clean Alternative Energy Act, appointed by the Controller.*

*(7) A renewable energy or energy efficiency expert from a California university that awards doctoral degrees in the sciences who is either a member of the National Academy of Sciences or the National Academy of Engineering, or a Nobel Prize laureate, appointed by the Speaker of the Assembly.*

*(8) The dean or a tenured faculty member of a major, nationally recognized California business school that awards post-graduate degrees who has significant experience in as many as possible of new technology ventures, entrepreneurship, consumer marketing, consumer adoption of new trends, and enterprises comparable in scale and purpose to those that would be eligible for funding pursuant to the Clean Alternative Energy Act, appointed by the Senate Committee on Rules.*



(9) A Californian who has expertise, and who has demonstrated leadership, in consumer advocacy, preferably with substantial experience in consumer marketing and business, appointed by the Attorney General.

(c) The members listed in paragraphs (1) to (5)(3), inclusive, of subdivision (b) may each designate a deputy or clerk in his or her agency to act for and represent the member at all meetings of the authority, who is employed under the member's authority, and, notwithstanding Section 7.5 of the Government Code, each such designee may act in his or her place and stead on the board. While serving on the board, the deputy may exercise the same powers that the member could exercise if he or she were personally present.

(d) The first meeting of the authority after the voters' enactment of the Clean Alternative Energy Act shall be convened by the Treasurer within 60 days of the effective date of the Act. At the first meeting, the members of the authority shall elect a chairperson, who shall serve a two-year term. No chairperson shall serve more than two consecutive two-year terms.

(e) Members of the authority and any entity controlled by a member shall not be eligible to apply for any incentive including, but not limited to, any grant, loan, loan guarantee, credit, or buydown awarded by the authority or any contract made by the authority.

(f) Members of the authority appointed pursuant to paragraphs (4) to (9), inclusive, of subdivision (b) shall serve four-year terms and shall be eligible to serve a maximum of two terms.

(g) Service as a member of the authority by a member of the faculty or administration of the University of California shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of a member of the authority as a member of the faculty or administration of the University of California and shall not result in automatic vacation of either office. Service as a member of the authority by an employee of an entity that is eligible for funding from the authority shall not be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of a member of the authority as an employee of an entity that is eligible for funding from the authority.

SEC. 7. Section 26005 of the Public Resources Code is amended to read:

26005. All members of the authority shall serve thereon without compensation as members of the authority, except for the members appointed pursuant to paragraphs (4) to (9), inclusive, of subdivision (b) of Section 26004, who shall be entitled to receive a per diem, established by the Department of Personnel Administration, based on comparable per diem paid to members of similar state boards and commissions, for each day actually spent in the discharge of the member's duties. All members of the authority shall be entitled to reasonable and necessary travel and other expenses incurred in the performance of the member's duties.

SEC. 8. Section 26006 of the Public Resources Code is amended to read:

26006. The provisions of this division shall be administered by the authority which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it under this division and under Article XXXVI of the California Constitution.

SEC. 9. Section 26008 of the Public Resources Code is amended to read:

26008. (a) 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 shall appoint a chief executive officer with substantial business experience in the private sector at a senior management level, preferably with experience in new technology, to serve the authority, as soon as reasonably practicable. The executive director chief executive officer shall serve at the pleasure of the authority and shall receive such compensation as shall be fixed by the authority. The authority may delegate to the executive director the power to enter contracts on behalf of the authority. The chief executive officer's primary responsibilities shall be to hire, direct, and manage the authority's staff; to develop the authority's two-year and ten-year strategic plans pursuant to Section 26045; to develop and recommend standards and procedures, including a competitive selection process, to govern the authority's consideration and award of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns pursuant to Section 26045; to develop recommendations for the award of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns pursuant

to Section 26045; to develop and recommend procedures and standards to monitor recipients of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns awarded by the authority pursuant to Section 26045; and to execute and manage contracts on behalf of the authority.

(b) From time to time, the authority shall determine the total number of authorized employees for the authority.

(1) Notwithstanding Sections 19816, 19825, 19826, 19829, and 19832 of the Government Code, the authority shall fix and approve the compensation of the chief executive officer and other staff of the authority.

(2) When fixing and approving the compensation of the chief executive officer and other staff of the authority pursuant to paragraph (1), the authority shall be guided by the principles contained in Sections 19826 and 19829 of the Government Code, consistent with the authority's responsibility to recruit and retain highly qualified and effective employees.

SEC. 10. Section 26010 of the Public Resources Code is amended to read:

26010. (a) The Attorney General shall be the legal counsel for the authority, but with the approval of the Attorney General, the authority may employ such legal counsel as in its judgment is necessary or advisable to enable it to carry out the duties and functions imposed upon it by this division, including the employment of such bond counsel as may be deemed advisable in connection with the issuance and sale of bonds.

(b) The Director of Finance Treasurer shall be the treasurer of the authority.

SEC. 11. Section 26020 of the Public Resources Code is amended to read:

26020. (a) The authority may incur indebtedness and issue and renew negotiable bonds, notes, debentures, or other securities of any kind or class to carry out its corporate purposes. All indebtedness, however evidenced, shall be payable solely from revenues of the authority, including the proceeds from the assessment imposed pursuant to Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code and the proceeds of its negotiable bonds, notes, debentures, or other securities; and shall not exceed the sum of one billion dollars (\$1,000,000,000) of total debt outstanding.

(b) As used in this section, "total debt outstanding" does not include either of the following:

(1) A bond for which provisions have been made for prepayment through irrevocable escrow or other means, so that the bond is not considered outstanding under its authorizing document.

(2) Indebtedness that is incurred to refund existing debts, except to the extent that the indebtedness exceeds the amount of those debts.

SEC. 12. Section 26021 of the Public Resources Code is repealed.

26021. The Legislature may, by statute, authorize the authority to issue bonds, as defined in Section 26022, in excess of the amount provided in Section 26020.

SEC. 13. 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 and to finance expenditures authorized by the Clean Alternative Energy Act as set forth in Chapter 4 (commencing with Section 26043). In anticipation of the sale of bonds as authorized by Section 26020, or as may be authorized pursuant to Section 26021, 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, hereinafter collectively called notes, and the resolution or resolutions authorizing the notes may contain any provisions, conditions or limitations which 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 two years

from the date of issue of the original note.

(b) Except as may otherwise be expressly provided by the authority *and except as more particularly provided in subdivision (e)*, 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) ~~Subject to the limitations in Sections 26020 and 26021, the bonds~~ 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 rate or rates, be payable at the time or times, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, 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, as the resolution or resolutions may provide, *provided, however, that bonds issued for purposes of the Clean Alternative Energy Act shall have a maturity of not more than 25 years.* The bonds or notes shall be sold by the Treasurer within 60 days of receipt of a certified copy of the authority's resolution authorizing the sale of the bonds. However, the authority, at its discretion, may adopt a resolution extending the 60-day period. 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 which shall be exchanged for the definitive bonds. The Treasurer may sell any bonds, notes, or other evidence of indebtedness at a price below their par value. ~~However, the discount on any security so sold shall not exceed 6 percent of the par value.~~

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

(1) Pledging the full faith and credit of the authority or pledging all or any part of the revenues of any project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, or other moneys of the authority, *including moneys deposited in the California Energy Independence Fund created by Article XXXVI of the California Constitution*, 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 any issue of bonds then or thereafter to be issued may be applied and pledging those proceeds to secure the payment of the bonds or any 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 any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, 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 which 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 any 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) Procedures for the selection of projects to be financed with the proceeds of the bonds authorized by the resolution, if the bonds are to be sold in advance of the designation of the projects and participating parties to receive the financing.

*(e) Notwithstanding any other provision of this division, the authority may pledge all moneys which are deposited in the Debt Service Account of the California Energy Independence Fund, which is established by Article XXXVI of the California Constitution, to the payment of the principal of premium, if any, or interest on any bonds, bond anticipation notes or other obligations of the authority used to finance the Clean Alternative Energy Act, together with payment of all ancillary obligations, as that term is defined in Section 26048, or other costs of issuing or carrying such bonds. The authority shall determine from time to time and notify the State Board of Equalization in writing the amounts which must be deposited each month, or during the course of each fiscal year, in the Debt Service Account to provide for all the aforementioned payments and costs, and any coverage factors which are required by the bond documents. The lien of the pledge of the amounts in the Debt Service Account shall vest automatically upon the execution and delivery of the resolution, trust agreement, or other agreement relating to the bonds, bond anticipation notes, other obligations, or ancillary agreements, without requirement of any filing or notice. If moneys are deposited in the Debt Service Account which exceed the amounts necessary to pay current obligations for repayment of bonds, other obligations and ancillary obligations, the authority shall apply such excess funds to the early retirement of such bonds to the maximum extent fiscally prudent.*

~~(f) (f)~~ Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

~~(f) (g)~~ The authority shall have power out of any funds available for these purposes to purchase its bonds or notes. The authority may hold, pledge, cancel, or resell those bonds, subject to and in accordance with agreements with bondholders.

SEC. 14. 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 is pledged to the payment of the principal of or interest on this bond."

~~The Except as set forth in Sections 26022 and 26049, 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. 15. Section 26029.4 of the Public Resources Code is amended to read:

26029.4. Subject to Section 26029.6, the existence of the authority may be terminated at any time by the Legislature *no sooner than January 1, 2027, or after the assets of the authority have been fully expended, whichever is later.* Upon dissolution of the authority, the title to all properties owned by it shall, subject to the interests of any participating parties therein, vest in and become the property of the State of California and shall not inure to the benefit of any private party. *Notwithstanding the foregoing, so long as any bonds or other obligations secured by the assessment imposed by Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code remain outstanding, neither*

the Legislature nor the people may reduce or eliminate the assessment, and this pledge may be included in the proceedings of any such bonds as a covenant with the holders of such bonds.

SEC. 16. 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, 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. The proceeds from the assessment imposed pursuant to Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code, the proceeds from the sale of bonds, notes, or other evidences of indebtedness secured by the assessment, and any revenues generated by the Clean Alternative Energy Act shall be deposited in the California Energy Independence Fund, as established by Section 4 of Article XXXVI of the California Constitution, and shall be used solely for the purposes of the Clean Alternative Energy Act. Notwithstanding any other provision of law, proceeds of bonds issued pursuant to this division, including those deposited in the Clean Energy Independence Fund, may be held by a trustee outside the state treasury system as provided by this chapter.

SEC. 17. Chapter 4 (commencing with Section 26043) is added to Division 16 of the Public Resources Code, to read:

## CHAPTER 4. CLEAN ALTERNATIVE ENERGY PROGRAM

### Article 1. General Provisions

26043. This chapter implements the Clean Alternative Energy Act, including Article XXXVI of the California Constitution. As used throughout this chapter, "Act" refers to the Clean Alternative Energy Act.

26044. This chapter shall govern the expenditure of all revenues deposited in the California Energy Independence Fund.

26045. In addition to its other powers and duties, the authority shall perform the following functions:

(a) Within nine months of the effective date of the Act, and every two years thereafter, adopt or modify two-year and ten-year strategic plans to guide the authority's funding decisions in the areas of petroleum use reduction, academic research and vocational training, technology innovation, and public education in order to meet the goals of this Act within 10 years of the adoption of the authority's initial strategic plans.

(b) Adopt procedures and standards, including a competitive selection process, to govern the authority's consideration and award of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns. The incentives approved by the authority shall not be deemed to be contracts subject to the Public Contract Code.

(c) Award incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns, through a competitive selection process designed to achieve the objectives of this Act within 10 years of the date of adoption of the authority's initial strategic plans. For loans and loan guarantees, to the extent permitted under California law, the authority shall use all prudent means to maximize the impact of the loans and loan guarantees by recycling funds or remarketing loans or loan guarantees.

(d) Expend four billion dollars (\$4,000,000,000) within ten years of the date of adoption of the authority's initial strategic plans to achieve the objectives of the Act from either the proceeds of bonds or other obligations of the authority or from the California Energy Independence Fund Assessment deposited in the accounts established pursuant to subdivision (b) of Section 26049. This amount shall not include the costs of repaying indebtedness associated with the Clean Alternative Energy Act, including principal, interest, ancillary obligations, and other costs of any bonds issued pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code. The authority shall expend any additional amounts remaining in the California Energy Independence Fund in furtherance of the purposes of this Act.

(e) Adopt procedures and standards to monitor recipients of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns, awarded by the authority.

(f) Adopt objective standards to measure the authority's success in meeting the goals of this Act.

(g) Ensure the completion of an annual independent financial audit of the authority's operations and issue public reports regarding the authority's activities.

(h) Notwithstanding Section 11005 of the Government Code, accept additional revenue and real and personal property including, but not limited to, gifts, bequests, royalties, interest, and appropriations to supplement the authority's funding. Notwithstanding Section 26049, donors may earmark gifts for a particular purpose authorized by this Act.

(i) Appoint one advisory review committee of no more than nine members for each account established pursuant to subdivision (b) of Section 26049 to assist the authority in its review of applications for funding, if the authority determines that it is necessary to obtain expertise in market dynamics or technology that is not available within the authority. Members of review committees shall be entitled to receive a per diem, established by the Department of Personnel Administration, based on comparable per diem paid to members of similar state review committees, for each day actually spent in the discharge of the member's duties, plus reasonable and necessary travel and other expenses incurred in the performance of the member's duties. Members of the advisory review committees and any entity controlled by a member shall not be eligible to apply for any incentive including, but not limited to, any grant, loan, loan guarantee, credit, or buydown awarded by the authority or any contract made by the authority.

(j) Apply for federal matching funds where possible.

(k) Adopt regulations pursuant to the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Gov. C.) as necessary to implement this Act. In order to expedite the commencement of the program mandated by this Act, however, the authority may adopt interim regulations, including standards, without complying with the procedures set forth in the Administrative Procedure Act. The interim regulations shall remain in effect for 270 days unless earlier superseded by regulations adopted pursuant to the Administrative Procedure Act.

26046. The authority shall take all actions authorized by this chapter by a majority vote of a quorum of the authority, except as required by subdivision (f) of Section 26050 and subdivision (c) of Section 26056.

26047. Section 1090 of the Government Code shall not apply to any incentive including, but not limited to, a grant, loan, loan guarantee, credit, or buydown, or contract awarded by the authority pursuant to this chapter except where both of the following conditions are met:

(a) The member has a financial interest in an incentive or contract.

(b) The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the incentive or contract.

### Article 2. Definitions

26048. As used in this Act, the following terms shall have the following meanings:

(a) "Ancillary obligation" means an obligation of the authority entered into in connection with any bonds issued under this division, including the following:

(1) A credit enhancement or liquidity agreement, including any credit enhancement or liquidity agreement in the form of bond insurance, letter of credit, standby bond purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement.

(2) A remarketing agreement.

(3) An auction agent agreement.

(4) A broker-dealer agreement or other agreement relating to the marketing of the bonds.

(5) An interest rate or other type of swap or hedging contract.

(6) An investment agreement, forward purchase agreement, or similar structured investment contract.

(b) "Buydown" means a payment to cover up to 100 percent of the difference in the purchase price between a clean alternative fuel vehicle and a comparable dedicated gasoline or diesel vehicle.

(c) "Clean alternative fuels" means fuels for use in transportation including, but not limited to, hydrogen, methanol, natural gas, ethanol blends consisting of at least 85 percent ethanol, and biodiesel blends consisting of at least 20 percent biodiesel that, when used in vehicles, have been demonstrated, to the satisfaction of the authority, to have the ability to meet applicable vehicular emission standards and that, relative to petroleum use, produce no net material increase in air pollution, water pollution, or any other substances that are known to damage human health, and reduce global warming pollution considering the full fuel-cycle assessment. Any fuel not specifically mentioned above must significantly decrease global warming pollution emissions compared to petroleum, considering the full fuel-cycle assessment, in order to be considered a clean alternative fuel.

(d) "Clean alternative fuel infrastructure" means facilities and equipment dedicated to clean alternative fuel production, storage, and distribution.

(e) "Clean alternative fuel vehicles" means light-, medium-, and heavy-duty conversions, conversion systems, and vehicles powered by clean alternative fuels, flexible-fuel vehicles, plug-in hybrids powered primarily by electricity, and battery-powered electric vehicles, all of which have been demonstrated, to the satisfaction of the authority, to have the ability to meet applicable vehicular emission standards and that, relative to petroleum use, produce no net material increase in air pollution (including global warming pollution), water pollution, or any other substances that are known to damage human health and which meet all applicable safety certifications and standards necessary to operate in California.

(f) "Energy efficiency technologies" means methods of obtaining more or better services from less energy, compared with typical current practices in California.

(g) "Full fuel-cycle assessment" means evaluating and comparing the full environmental and health impacts of each step in the life cycle of a fuel, including, but not limited to, all of the following:

(1) Feedstock extraction, transport, and storage.

(2) Fuel production, distribution, transport, and storage.

(3) Vehicle operation, including refueling, combustion or conversion, and evaporation.

(4) Electricity generation, distribution, and storage, when used in vehicles for transportation.

(h) "Petroleum reduction" means methods of reducing total projected petroleum use in California either through increased energy efficiency, clean alternative fuels, or a combination of both.

(i) "Renewable energy technologies" means energy production techniques, products or systems, distribution techniques, products or systems, and transportation machinery, products or systems, all of which utilize solely energy resources that are naturally regenerated over a short time scale and delivered directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower facilities of 30MW or less that are consistent with subparagraph (D) of paragraph (3) of subdivision (b) of Section 25743 of the Public Resources Code, and photosynthetic energy stored in biomass consistent with subdivisions (d) and (f) of Section 25743 of the Public Resources Code), or from other natural movements or mechanisms of the environment, such as geothermal and tidal energy. Renewable energy technologies do not include technologies that use energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

### Article 3. Allocation of Funds

26049. (a) From the revenues generated by the California Energy Independence Fund Assessment, there shall first be deposited in each calendar month into the Debt Service Account of the California Energy Independence Assessment Fund, which account is hereby created, moneys in such an amount as the authority determines and notifies the State Board of Equalization in writing is necessary and appropriate to pay the debt service on any outstanding bonds, bond anticipation notes, or other obligations and indebtedness of the authority, together with any ancillary obligations, any coverage factors required by the bond documents, any costs

associated with the issuance or carrying of any bonds, bond anticipation notes, or other obligations and indebtedness of the authority, and any other costs determined by the authority to be necessary to carry out the financing authorized by this chapter. Notwithstanding any other provision of law, moneys in the Debt Service Account are continuously appropriated, without regard to fiscal year, to the authority for the repayment of bonds, other obligations or indebtedness or ancillary obligations or other costs of the authority relating to outstanding bonds and may be held by a trustee as authorized by Section 26023.

(b) After funds have been deposited in the Debt Service Account pursuant to subdivision (a) in any month, all funds deposited in the California Energy Independence Fund for that month, except as otherwise provided by this Act, shall be allocated as follows:

(1) Fifty-seven and one-half percent (57.5%) to the Gasoline and Diesel Use Reduction Account, which is hereby created.

(2) Twenty-six and three-quarters percent (26.75%) to the Research and Innovation Acceleration Account, which is hereby created.

(3) Nine and three-quarters percent (9.75%) to the Commercialization Acceleration Account, which is hereby created.

(4) Two and one-half percent (2.5%) to the Vocational Training Account, which is hereby created.

(5) Three and one-half percent (3.5%) to the Public Education and Administration Account, which is hereby created.

(c) Any funds allocated to the accounts established by paragraphs (1) to (5), inclusive, of subdivision (b) that are not encumbered or expended in any fiscal year shall remain in the same account for the next fiscal year, except as provided in subdivision (d) of Section 26058. Once all expenditures authorized by this Act have been made from the accounts established by paragraphs (1) to (5), inclusive, of subdivision (b), all proceeds from the California Energy Independence Fund Assessment shall be deposited in the Debt Service Account established by subdivision (a) until all obligations secured or payable from such account have been paid or payment has been provided for.

(d) Funds deposited in the accounts of the California Energy Independence Fund created in subdivision (b) shall be used to supplement, and not to supplant, existing state funding for research, vocational training, and technological development and deployment involving petroleum reduction, energy efficiency, and renewable energy. To maximize the use of available funds, the authority shall coordinate its expenditure of funds in the California Energy Independence Fund with other state agencies to avoid duplication and to ensure that the funds are expended efficiently and efficaciously.

26050. Based on the standards set forth in Section 26056, the authority may use the funds in the Gasoline and Diesel Use Reduction Account for the following categories of expenditures, based on the relative merit in petroleum reduction of transportation-related applications to the authority for funding from this account:

(a) Market-based incentives including, but not limited to, loans, loan guarantees, credits, and buydowns to fleets and individuals for the purchase of clean alternative fuel vehicles sold in California. For buydowns to state and local government agency fleets, the authority shall give preference to school bus, emergency services vehicle, waste disposal truck, and mass transit bus fleets. Other than these preference categories, buydowns will be market-based and subject to the authority determining that the buydown will significantly assist the technology to achieve unsubsidized market competitiveness. Demonstration projects are discouraged.

(b) Production incentives including, but not limited to, loans, loan guarantees, and credits for clean alternative fuel production in California, excluding the production of electricity, except clean fuel cell based electricity production.

(c) Incentives including, but not limited to, loans, loan guarantees, credits, and grants for the construction of publicly accessible clean alternative fuel refueling stations, including refueling stations that sell ethanol blends consisting of at least 85 percent ethanol (E-85) sufficient in number to match the existing supply of E-85 vehicles in California based on the ratio of diesel vehicles to diesel fuel stations, and electric vehicle chargers using similar criteria. The authority should consider issuing suitable requests for proposals for refueling stations as soon as practicable.

(d) Incentives including, but not limited to, loans, loan guarantees,

and grants for the installation of publicly accessible clean alternative fuel infrastructure.

(e) Grants and loans to private enterprises for research involving clean alternative fuels and clean alternative fuel vehicles in California.

(f) Other expenditures which the authority determines, by a vote of seven or more members of the authority, represent urgent or extraordinary opportunities involving vehicle or fuel technologies that will advance the goal of reducing the use of petroleum transportation fuels in California from 2005 levels by ten billion (10,000,000,000) gallons over 10 years.

26051. Based on the standards set forth in Section 26057, the authority shall use the funds in the Research and Innovation Acceleration Account to make grants to California universities for facilities, post-baccalaureate student research training grants, and research, performed and located wholly on the contiguous campus of the university, to improve the economic viability and accelerate the commercialization of renewable energy technologies, such as solar, geothermal, wind, and wave technologies, and energy efficiency technologies in buildings, equipment, electricity generation, and vehicles.

26052. Based on the standards set forth in Section 26058, the authority shall use the funds in the Commercialization Acceleration Account to provide incentives—including, but not limited to, loans, loan guarantees, and grants to fund the one-time or start-up costs of introducing petroleum reduction and renewable energy technologies, energy efficiency technologies, clean alternative fuels, and clean alternative fuel vehicles including, but not limited to, the certification of products, vehicles, and distribution systems, and for other costs that will accelerate the production and distribution of commercially viable products and technologies to the market and that, preferably, will promote California-based job creation, employment, and economic development.

26053. Based on the standards in Section 26059, the authority shall use the funds in the Vocational Training Account to:

(a) Make grants through the Office of the Chancellor of Community Colleges to California community colleges for staff development and facilities to train students to work with renewable energy technologies, energy efficiency technologies, and clean alternative fuels, in buildings, equipment, electricity generation, and vehicles.

(b) Make grants through the Office of the Chancellor of Community Colleges to California community colleges for tuition assistance for low-income students and former fossil fuel energy workers and certified vehicle mechanics to obtain training to work with renewable energy technologies, such as solar, geothermal, wind, and wave technologies, clean alternative fuels, and energy efficiency technologies, in buildings, equipment, electricity generation, and vehicles.

26054. Based on the standards in Section 26060, the authority shall use the funds in the Public Education and Administration Account to:

(a) Educate the California public regarding the importance of energy efficiency technologies, renewable energy technologies, and full fuel-cycle petroleum reduction.

(b) Administer the authority.

(c) Monitor the implementation of the California Energy Independence Fund Assessment and refer any evidence that oil producers are attempting to gouge consumers by passing the assessment on to consumers in the form of higher prices for oil, gasoline, or diesel fuel to the Board of Equalization for investigation.

#### Article 4. Standards

26055. The authority shall establish the following standards:

(a) **Intellectual Property Rights.** The authority shall establish standards requiring that all research grants made pursuant to this Act shall be subject to intellectual property agreements that balance the opportunity of the State of California to benefit from the patents, royalties, and licenses that result from the research with the need to assure that such research is not unreasonably hindered by those intellectual property agreements.

(b) **Oversight of Awards.** The authority shall establish standards for the oversight of all incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns made under this Act to ensure compliance with all applicable terms and requirements. The standards shall include periodic reporting, including financial and performance audits, by all recipients of incentives, excluding individuals who receive

buydowns, and shall permit the authority to discontinue funding or to take other action to ensure the purposes of this Act are being met.

26056. Standards for Gasoline and Diesel Use Reduction Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26050 consistent with the goal of reducing the rate of petroleum consumption in California by 25 percent within 10 years of the date of the authority's adoption of an initial strategic plan pursuant to this section, as compared with California's current sixteen billion (16,000,000,000) gallon annual rate of consumption, or roughly four billion (4,000,000,000) gallons of petroleum transportation fuels per year by 2017, and causing permanent and long-term reductions in petroleum consumption in California. The total reduction goal shall be ten billion (10,000,000,000) gallons of petroleum transportation fuels over 10 years. Prior to making any expenditure pursuant to Section 26050, the authority shall adopt a strategic plan pursuant to subdivision (a) of Section 26045, as follows:

(1) Within nine months of the effective date of this Act, the authority, in consultation with the California Air Resources Board, the California Energy Commission, and the Public Utilities Commission, shall adopt an Integrated Resource Plan for petroleum reduction in California. The Integrated Resource Plan shall be based on the best estimates of the potential for unsubsidized market acceptance of technologies, products, or services within 10 years of the date of the adoption of the initial Integrated Resource Plan.

(2) The Integrated Resource Plan shall outline a strategy for the allocation of funds to programs with the highest return opportunities, using the financing powers provided to the authority by this division. The Integrated Resource Plan shall maximize the petroleum use reduction while considering the greenhouse gas reduction benefits of clean alternative fuels and clean alternative fuel vehicles. The Integrated Resource Plan shall also evaluate the expenditure of funds for clean alternative fuel vehicles and shall consider allocating funds necessary to balance the deployment of clean alternative fuel vehicles with accessibility to clean alternative fuels.

(3) The Integrated Resource Plan shall be developed with input from interested parties at scheduled public hearings of the authority under the leadership of the Chief Executive Officer of the authority. The authority shall update the plan every two years and shall amend the plan to ensure that it remains consistent with California Air Resources Board regulations and consistent with the priorities and goals of this Act.

(4) The Integrated Resource Plan shall contain an assessment of the potential of expenditures to meet or exceed the goal of reducing petroleum consumption by ten billion (10,000,000,000) gallons over 10 years. Expenditures shall only be made for items consistent with meeting or exceeding this goal. Expenditures shall also be consistent with, and shall receive priority according to their potential to meet or exceed, the emissions targets and goals set forth in Executive Order S-3-05, as published, and the emissions targets and goals set forth in Sections 1900, 1961, and 1961.1 of Title 13 of the California Code of Regulations, in effect as of December 1, 2005. If these emissions targets and goals are replaced by more stringent emissions targets and goals prior to dissolution of the authority, the more stringent emissions targets and goals shall be used to establish priority for all subsequent expenditures under Section 26050. The full fuel-cycle assessment should be applied to all fuels, including electricity as a transportation fuel. Different methods of producing a specific fuel may have different greenhouse gas emission reductions, and the various methods should be duly considered in evaluating the full fuel-cycle for that fuel. In the case of two vehicles with equivalent full fuel-cycle greenhouse gas emissions, priority shall be given to that which involves the lowest cost to the account.

(5) All expenditures made by the authority under this section shall be consistent with the strategy outlined in the Integrated Resource Plan.

(b) All expenditures on clean alternative fuel infrastructure and electric vehicle chargers shall be restricted to those that support clean alternative fuel vehicles that are available for sale and are producible in substantial volumes.

(c) Expenditures for buydowns shall be limited to 25 percent of the total amount deposited in the Gasoline and Diesel Use Reduction Account, unless the authority determines, by a two-thirds vote, that additional expenditures are warranted in order to most cost-effectively achieve the goals of this Act.

(d) All expenditures made pursuant to Section 26050 shall be based upon a competitive selection process, established pursuant to subdivision (b) of Section 26045. Pursuant to the competitive selection process, the authority shall, at a minimum:

(1) Ensure that the expenditure does not supplant existing state funding for the reduction of petroleum consumption in California.

(2) Evaluate the quality of the proposal for funding, including the availability of private matching funds, and the potential for achieving significant results, including the level of petroleum reduction within the state that is expected to be achieved as a result of the expenditure. Proposals with significant business validation and leverage from private equity funding or subordinate debt funding from private sources will be prioritized and given preference to establish the market viability of the proposals.

(3) Evaluate the unit cost of petroleum reduction of the proposal and the potential of the proposal to achieve unsubsidized market competitiveness and pervasive acceptance, adjusted for the risk and time value of money.

(4) Evaluate the probability that the proposal will result in a sustained, unsubsidized market-competitive technology or technologies that can achieve substantial consumer or business acceptance beyond the subsidy or incentive period.

(5) Ensure that the expenditure is consistent with the two-year and ten-year strategic plans adopted by the authority.

26057. Standards for Research and Innovation Acceleration Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26051 consistent with the goal of improving the economic viability, and accelerating the commercialization, of renewable energy technologies, such as solar, geothermal, wind, and wave technologies, and energy efficiency technologies in buildings, equipment, electricity generation, and vehicles. Prior to making any expenditures pursuant to Section 26051, the authority shall adopt a strategic plan pursuant to subdivision (a) of Section 26045.

(b) All expenditures made pursuant to Section 26051 shall be based upon a competitive selection process, established pursuant to subdivision (b) of Section 26045. Pursuant to the competitive selection process, the authority shall, at a minimum:

(1) Ensure that the expenditure is for research in renewable energy technologies or energy efficiency technologies.

(2) Ensure that the expenditure does not supplant existing state funding for research in renewable energy technologies or energy efficiency technologies and that the authority coordinates its expenditures with other state agencies, including the Public Interest Energy Research, Demonstration, and Development Program, established by Chapter 7.1 (commencing with Section 25620) of Division 15, to maximize the effectiveness of the expenditures and to avoid duplication of effort.

(3) Evaluate the quality of the research proposal, the potential for achieving significant results, including consideration of how the expenditure will aid or result in the commercialization, or significant and permanent deployment, of renewable energy technologies or energy efficiency technologies in California, and the time frame for achieving that goal.

(4) Give funding priority to research proposals that utilize more abundant renewable energy resources and that offer the greatest potential for technological breakthroughs. Priority shall additionally be given to research proposals that offer the greatest potential to meet or exceed the goals set forth in: (a) Executive Order S-3-05; (b) Sections 1900, 1961, and 1961.1 of Title 13 of the California Code of Regulations, in effect as of December 1, 2005; or (c) Article 16 (commencing with Section 399.11) of Chapter 2.3 of Part 1 of Division 1 of the Public Utilities Code, in effect as of December 1, 2005. Research proposals that offer the greatest potential to meet or exceed the goals set forth in subdivisions (a) to (c), inclusive, shall receive the highest priority for funding, followed by those research proposals that offer the greatest potential to meet or exceed the targets and goals set forth in two of subdivisions (a) to (c), inclusive, followed by those proposals that offer the greatest potential to meet or exceed the targets and goals set forth in one of subdivisions (a) to (c), inclusive.

(5) Ensure that all funds to support buildings and permanent facilities pursuant to Section 26051 are committed during the first two years of the program, and that such expenditures, in the aggregate, do not exceed

one hundred million dollars (\$100,000,000). The authority shall require all recipients of funding for facilities to pay all workers employed on the construction or modification of the facility the general prevailing rate of per diem wages for work of a similar character in the locality in which work on the facility is performed and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(6) Ensure that the expenditure is consistent with the two-year and ten-year strategic plans adopted by the authority.

26058. Standards for Commercialization Acceleration Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26052 consistent with the goal of accelerating the commercialization of economically viable, innovative renewable energy technologies, energy efficiency technologies, clean alternative fuels, and clean alternative fuel vehicles in California within 10 years of the effective date of this Act, by providing funding for the one-time or start-up costs of introducing renewable energy technologies, energy efficiency technologies, clean alternative fuels, and clean alternative fuel vehicles including, but not limited to, the certification of products, vehicles, and distribution systems, and for other costs that will accelerate the production and distribution of commercially viable products and technologies to the market. Prior to making any expenditures pursuant to Section 26052, the authority shall adopt a strategic plan pursuant to subdivision (a) of Section 26045.

(b) All expenditures made pursuant to Section 26052 shall be based upon a competitive selection process, established pursuant to subdivision (b) of Section 26045. Pursuant to the competitive selection process, the authority shall, at a minimum:

(1) Ensure that the expenditure will advance the goal of commercializing economically viable renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles in California.

(2) Evaluate the potential that the expenditure will achieve significant results, including how the expenditure will aid or result in bringing commercially viable renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles to the market in California, within a reasonable time frame from the date of the expenditure.

(3) Establish that it is reasonably likely that a significant share of the finished technology or product for which the funds are allocated will be available to, or will be deployed in, California or that a significant share of all components used in the finished technology or product will be manufactured in California.

(4) Evaluate the cost, adjusted for time value, of energy developed or saved by the proposal relative to its ability to advance the objectives of the Commercialization Acceleration Account.

(5) Evaluate the probability that the proposal will result in a sustained, unsubsidized market-competitive technology or technologies that can achieve substantial consumer or business acceptance.

(6) Ensure that the expenditure is consistent with the two-year and ten-year strategic plans adopted by the authority.

(c) All expenditures from the Commercialization Acceleration Account require the recipient of the expenditure to provide matching funds equal to at least 50 percent of the expenditure, except that in the case of loans and loan guarantees, the recipient may provide equity or subordinated debt equal to at least 25 percent of the loan or loan guarantee. This constraint will not be applicable to the distribution for a clean alternative fuel equal to approximately the first 15 percent of the distribution of the gasoline distribution system.

(d) Any funds that remain in the account after 10 years shall be divided equally between the Gasoline and Diesel Use Reduction Account and the Research and Innovation Acceleration Account.

26059. Standards for Vocational Training Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26053 consistent with the goal of training students to work with renewable energy technologies, such as solar, geothermal, wind, and wave technologies, or energy efficiency technologies, in buildings, equipment, electricity generation, clean alternative fuels, and clean alternative fuel vehicles. Prior to making any expenditures pursuant to Section 26053, the authority shall adopt a strategic plan pursuant to subdivision (a) of Section 26045.



(b) All expenditures made pursuant to Section 26053 shall be based upon a competitive selection process, established pursuant to subdivision (b) of Section 26045. Pursuant to the competitive selection process, the authority shall, at a minimum:

(1) Ensure that the expenditure is for training in renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles.

(2) Ensure that the expenditure does not supplant existing state funding for training in renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles.

(3) Evaluate the quality of the program, the potential for achieving significant results, including consideration of how the expenditure will aid or result in training workers in renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles in California, and the time frame for achieving that goal.

(4) Ensure that the expenditure is consistent with the two-year and ten-year strategic plans adopted by the authority.

26060. Standards for Public Education and Administration Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26054 consistent with the goal of educating the public regarding the importance of energy efficiency technologies, renewable energy technologies, and full life-cycle petroleum reduction, and reporting on the progress of the program, and of efficiently administering the authority.

(b) At least 28.5 percent of the funds in the Public Education and Administration Account shall be expended for the purpose of public education regarding funded technologies.

#### Article 5. Accountability

26061. (a) In addition to the report required by Section 26017, the authority shall issue an annual report to the Governor, the Legislature, and the public which sets forth its activities, its accomplishments, and future program directions. Each annual report shall include, but not be limited to, the following: the number and dollar amounts of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns; the recipients of incentives for the prior year; the authority's administrative expenses; a summary of research findings, including promising new research areas and technological innovations; and an assessment of the relationship between the authority's award of incentives and the authority's strategic plan.

(b) The authority shall annually commission an independent financial audit of its activities from a certified public accountant which shall be provided to the Controller, who shall review the audit and annually issue a public report of that review.

(c) There shall be a Citizens' Financial Accountability Oversight Committee chaired by the Controller. This committee shall review the annual financial audit and the Controller's report and evaluation of that audit. The Controller, the Treasurer, the President pro Tempore of the Senate, the Speaker of the Assembly, and the chairperson of the authority shall each appoint a public member of the committee. The committee shall provide recommendations regarding the authority's financial practices and performance. The Controller shall provide staff support. The committee shall hold a public meeting, with appropriate notice, and a formal public comment period. The committee shall evaluate public comments and include appropriate summaries in its annual report.

SEC. 18. Part 21 (commencing with Section 42000) is added to Division 2 of the Revenue and Taxation Code, to read:

#### PART 21. CALIFORNIA ENERGY INDEPENDENCE FUND ASSESSMENT LAW

42000. This part shall be known and may be cited as the "California Energy Independence Fund Assessment Law."

42001. For purposes of this part, the following definitions shall apply:

(a) "Authority" means the California Energy Alternatives Program Authority, which is established in Division 16 (commencing with Section 26000) of the Public Resources Code.

(b) "Barrel of oil" means 42 United States gallons or 231 cubic inches per gallon computed at a temperature of 60 degrees Fahrenheit.

(c) "Board" means the State Board of Equalization.

(d) "Consumer" means an individual, firm, partnership, association, or corporation who buys for his, her, or its own use, or for the use of another, but not for resale.

(e) "First purchaser" means a person who purchases oil from a producer.

(f) "Gross value" means the sale price at the mouth of the well for oil, including any bonus, premium, or other thing in value paid for the oil. If oil is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the board shall determine the value of the oil subject to the fee, based on the cash price paid to producers for like oil in the vicinity of the well.

(g) "Oil" means petroleum, or other crude oil, condensate, casing head gasoline, or other mineral oil that is mined, produced, or withdrawn from below the surface of the soil or water in this state.

(h) "Producer" means any person who takes oil from the earth or water in this state in any manner; any person who owns, controls, manages, or leases any oil well in the earth or water of this state; any person who produces or extracts in any manner any oil by taking it from the earth or water in this state; any person who acquires the severed oil from a person or agency exempt from property taxation under the Constitution or other laws of the United States or under the Constitution or other laws of the State of California; and any person who owns an interest, including a royalty interest, in oil or its value, whether the oil is produced by the person owning the interest or by another on his or her behalf by lease, contract, or other arrangement.

(i) "Production" means the total gross amount of oil produced, including the gross amount thereof attributable to a royalty or other interest.

(j) "Severed" or "severing" means the extraction or withdrawing from below the surface of the earth or water of any oil, whether extraction or withdrawal shall be by natural flow, mechanical flow, forced flow, pumping, or any other means employed to get the oil from below the surface of the earth or water and shall include the withdrawing by any means whatsoever of oil upon which the assessment has not been paid, from any surface reservoir, natural or artificial, or from a water surface.

(k) "Stripper well" means a well that has been certified by the board as an oil well incapable of producing an average of more than ten barrels of oil per day during the entire taxable month. Once a well has been certified as a stripper well, such stripper well shall remain certified as a stripper well until the well produces an average of more than 10 barrels of oil per day during an entire taxable month.

42002. Effective January 1, 2007, and except as provided for in Section 42007, there is hereby imposed the California Energy Independence Fund Assessment upon the privilege of severing oil from the earth or water in this state for sale, transport, consumption, storage, profit, or use. The assessment shall be borne ratably by all persons within the term "producer" as that term is defined in subdivision (h) of Section 42001. The fee shall be applied to all portions of the gross value of each barrel of oil severed as follows:

(a) One and one-half percent (1.5%) of the gross value of oil from \$10 to \$25 per barrel.

(b) Three percent (3.0%) of the gross value of oil from \$25.01 to \$40 per barrel.

(c) Four and one-half percent (4.5%) of the gross value of oil from \$40.01 to \$60 per barrel.

(d) Six percent (6.0%) of the gross value of oil from \$60.01 per barrel and above.

42003. Except as otherwise provided in this part, the assessment shall be upon the entire production in this state, regardless of the place of sale or to whom sold or by whom used, or the fact that the delivery may be made to points outside the state.

42004. (a) Producers or purchasers of oil, or both, are authorized and required to withhold from any payment due interested parties the proportionate amount of the assessment due.

(b) The assessment imposed by this part is the primary liability of



the producer and is a liability of the first purchaser and each subsequent purchaser. Failure of the producer to pay the assessment does not relieve the first purchaser or a subsequent purchaser from liability for the assessment. A purchaser of oil produced in this state shall satisfy himself or herself that the assessment on that oil has been or will be paid by the person liable for the assessment.

(c) The assessment imposed by this part shall not be passed on to consumers through higher prices for oil, gasoline, or diesel fuel. At the request of the authority, the board shall investigate whether a producer, first purchaser, or subsequent purchaser has attempted to gouge consumers by using the assessment as a pretext to materially raise the price of oil, gasoline, or diesel fuel.

42005. The assessment imposed by this part shall be in addition to any ad valorem taxes imposed by the state, or any of its political subdivisions, or any local business license taxes which may be incurred as a privilege of severing oil from the earth or doing business in that locality. No equipment, material, or property shall be exempt from payment of ad valorem tax by reason of the payment of the gross tax pursuant to this part.

42006. Two or more producers that are corporations and are commonly owned or controlled directly or indirectly, as defined in Section 25105, by the same interests, shall be considered as a single producer for purposes of application of the assessment prescribed by this part.

42007. The California Energy Independence Fund Assessment imposed pursuant to this part does not apply to:

(a) Oil owned or produced by any political subdivision of the state, including that political subdivision's proprietary share of oil produced under any unit, cooperative, or other pooling agreement.

(b) Oil produced by a stripper well in any month in which the average value of oil is less than \$50 per barrel. If in any month the average value of oil is \$50.01 or more per barrel, a stripper well shall be subject to a fee in the amount of 3 percent of the gross value of oil above \$50.01.

42008. The assessment imposed by this part shall be due and payable to the board on a monthly basis. The board has broad discretion in administering this part and may prescribe the manner in which all payments are made to the state under this part, and the board may prescribe the forms and reporting requirements as necessary to implement the assessment, including, but not limited to, information regarding the location of the well by county, the gross amount of oil produced, the price paid therefor, the prevailing market price of oil, and the amount of assessment due. The board may employ auditors, investigators, engineers, and other persons to engage in all activities necessary for the implementation of this part, including to verify reports and investigate the affairs of producers and purchasers to determine whether the assessment imposed by this part is properly reported and paid. In all proceedings under this part, the board may act on behalf of the people of the State of California.

42009. The board shall enforce the provisions of this part and may prescribe, adopt, and enforce rules and regulations, including, but not limited to, the payment of interest, the imposition of penalties, and any other action permitted by Sections 6451 to 7176, inclusive, or Sections 38401 to 38901, inclusive, whichever are most applicable as determined by the board, relating to the application, administration, and enforcement of this part.

42010. (a) All assessments, interest, penalties, and other amounts collected pursuant to this part shall be deposited in the California Energy Independence Fund, which is established by Article XXXVI of the California Constitution. Before allocating funds pursuant to subdivision (a) or (b) of Section 26049 of the Public Resources Code, the authority shall reimburse the board for expenses incurred in the administration and collection of the assessment imposed by this part. The board shall transfer moneys received from the aforementioned sources to the California Energy Independence Fund at least once per calendar month.

(b) This part shall become inoperative after the authority has expended four billion dollars (\$4,000,000,000) pursuant to subdivision (d) of Section 26045 of the Public Resources Code and after all indebtedness associated with the Clean Alternative Energy Act, including principal, interest, ancillary obligations, and other costs of any bonds issued pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code, secured by a pledge of the assessment created by this part, has been paid or payment has been provided for, unless a later enacted statute, that becomes operative on or before the date this part becomes inoperative, deletes or extends the date on which it becomes inoperative. Notwithstanding the foregoing, so long as any bonds or other obligations

secured by the assessment created by this part remain outstanding, neither the Legislature nor the people may reduce or eliminate the assessment, and this pledge may be included in the proceedings of any such bonds as a covenant with the holders of such bonds.

#### SEC. 19. LEGAL CHALLENGE.

Any challenge to the validity of this Act must be filed within six months of the effective date of this Act.

#### SEC. 20. AMENDMENT.

The statutory provisions of this Act may be amended to carry out its purpose and intent by statutes approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

#### SEC. 21. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, including subdivision (c) of Section 42004 of the Revenue and Taxation Code and subdivision (c) of Section 26054 of the Public Resources Code, that invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

#### SEC. 22. CONFLICTING INITIATIVES.

In the event that this measure and another initiative measure or measures that impose an assessment, royalty, tax, or fee on the extraction of oil or that involve petroleum reduction shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

## PROPOSITION 88

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure expressly amends the California Constitution by adding sections thereto; and amends a section of the Government Code, and adds sections to the Education Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### SECTION 1. Title

This measure shall be known and may be cited as the Classroom Learning and Accountability Act.

#### SEC. 2. Findings and Declaration of Purpose

The People of the State of California find and declare that:

(a) California students are falling behind, ranking among the bottom six states in reading and math. In the nation's five biggest states, only California students score below average on every national assessment of educational progress.

(b) Independent research indicates that California's poor student achievement is caused, in part, by inadequate resources for public education, including low funding levels, high class sizes, inadequate facilities, and students with relatively greater needs. Education funding in California is chronically below the national average, even though California students are expected to meet some of the highest academic standards in the country.

(c) California's economic and social prosperity depend on a well-educated workforce capable of competing in a global economy.

(d) In order to improve student achievement, new investment is needed to reduce class sizes, provide textbooks and other instructional materials, improve campus safety, and provide facilities for high-quality public charter schools with greater parental and community involvement.

(e) A parcel assessment for public schools will raise needed funds for student achievement, while protecting property owners against runaway taxes—especially seniors with fixed incomes. Parcel assessments have been approved by voters in dozens of California communities, and they are consistent with Proposition 13 of 1978.

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