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AB-398 California Global Warming Solutions Act of 2006: market-based compliance mechanisms: fire prevention fees: sales and use tax manufacturing exemption. (2017-2018)

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ENROLLED JULY 17, 2017

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CALIFORNIA LEGISLATURE— 2017–2018 REGULAR SESSION

ASSEMBLY BILL

No. 398

Introduced by Assembly Members Eduardo Garcia, Senator De León, Cristina Garcia, Bloom, Chu, Dababneh, Gipson, Gonzalez Fletcher, Levine, Mullin, Muratsuchi, Nazarian, Quirk, Santiago, Weber, and Wood
(Coauthors: Senators Atkins, Hertzberg, Hill, Lara, and Skinner)

February 09, 2017

An act to amend, repeal, and add Sections 38501, 38562, and 38594 of, and to add and repeal Sections 38505.5, 38590.1, 38591.1, 38591.2, 38591.3, 38592.5, and 38592.6 of, the Health and Safety Code, to add Section 4213.05 to, to add Article 3 (commencing with Section 4229) to Chapter 1.5 of Part 2 of Division 4 of, and to repeal Chapter 1.5 (commencing with Section 4210) of Part 2 of Division 4 of, the Public Resources Code, and to amend Section 6377.1 of the Revenue and Taxation Code, relating to public resources, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 398, Eduardo Garcia. California Global Warming Solutions Act of 2006: market-based compliance mechanisms: fire prevention fees: sales and use tax manufacturing exemption.

(1) The California Global Warming Solutions Act of 2006 establishes the State Air Resources Board as the state agency responsible for monitoring and regulating sources emitting greenhouse gases. The act requires the state board to approve a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020 and to ensure that statewide greenhouse gas emissions are reduced to at least 40% below the 1990 level by 2030. The act authorizes the state board to include the use of market-based compliance mechanisms.

The act requires the state board to prepare and approve a scoping plan for achieving the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions and to update the scoping plan at least once every 5 years.

The act authorizes the state board to adopt a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit greenhouse gases, applicable from January 1, 2012, to December 31, 2020, inclusive, as specified.

This bill would require the state board, no later than January 1, 2018, to update the scoping plan, as specified. The bill would require all greenhouse gas rules and regulations adopted by the state board to be consistent with the scoping plan.

This bill would, until January 1, 2031, extend the applicability of a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit greenhouse gases to December 31, 2030.

This bill would, until January 1, 2031, require the state board to include specified price ceilings, price containment points, offset credit compliance limits, and industry assistance factors for allowance allocation as part of a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit greenhouse gases from January 1, 2021, to December 31, 2030, inclusive. The bill, until January 1, 2031, additionally would require the state board to develop approaches to increase offset projects in the state and to make specified reports to the Legislature as part of that regulation.

This bill would, until January 1, 2031, establish the Compliance Offsets Protocol Task Force, with a specified membership, to provide guidance to the state board in approving new offset protocols for a market-based compliance mechanism for the purposes of increasing offset projects with direct environmental benefits in the state while prioritizing disadvantaged communities, Native American or tribal lands, and rural and agricultural regions.

This bill would, until January 1, 2031, establish the Independent Emissions Market Advisory Committee with a specified membership and would require the advisory committee to at least annually hold a public meeting and report to both the state board and the Joint Legislative Committee on Climate Change Policies on the environmental and economic performance of a specified market-based compliance mechanism and other relevant climate policies.

This bill would, until January 1, 2031, require the California Workforce Development Board, in consultation with the state board, to submit a specified report to the Legislature, no later than January 1, 2019, on the need for increased education, career technical education, job training, and workforce development resources or capacity to help industry, workers, and communities transition to economic and labor-market changes related to specified statewide greenhouse gas emissions reduction goals.

This bill would, until January 1, 2031, require the Legislative Analyst's Office to annually report to the Legislature on the economic impacts and benefits of specified greenhouse gas emissions targets.

(2) Existing law requires all moneys, except for fines and penalties, collected by the state board as part of a market-based compliance mechanism to be deposited in the Greenhouse Gas Reduction Fund and to be available upon appropriation. Existing law continuously appropriates 60% of the annual proceeds of the fund for transit, affordable housing, sustainable communities, and high-speed rail purposes.

This bill would declare the intent of the Legislature that moneys collected pursuant to the market-based compliance mechanism be appropriated in accordance with a specified order of priorities.

(3) Existing law provides that the California Global Warming Solutions Act of 2006 does not limit or expand the existing authority of air pollution control and air quality management districts.

This bill instead would, until January 1, 2031, prohibit an air district from adopting or implementing an emission reduction rule for carbon dioxide from stationary sources that are also subject to a specified market-based compliance mechanism.

(4) Existing law provides that the state has the primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas, as defined. Existing law requires that a fire prevention fee be charged on each habitable structure on a parcel that is within a state responsibility area, to be used for specified fire prevention activities.

This bill, until January 1, 2031, would suspend the fire prevention fee. The bill would declare that it is the intent of the Legislature that moneys derived from the auction or sale of allowances pursuant to the market-based compliance mechanism described under (1) replace the fire prevention fee to continue the funding of the fire prevention activities. The bill would repeal those provisions requiring the payment of the fire prevention fee on January 1, 2031.

(5) Existing law, commencing July 1, 2017, provides that the California Department of Tax and Fee Administration is responsible for the administration of the Sales and Use Tax Law, which was previously administered by the State Board of Equalization.

Existing sales and use tax laws impose taxes on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state, and provide various exemptions from those taxes.

Existing law exempts from those taxes, on and after July 1, 2014, and before July 1, 2022, the gross receipts from the sale of, and the storage, use, or other consumption of, qualified tangible personal property purchased by a qualified person for use primarily in manufacturing, processing, refining, fabricating, or recycling of tangible personal property, as specified; qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development, as provided; qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property, as provided; and qualified tangible personal property purchased by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of specified processes.

This bill would, on and after July 1, 2014, and before July 1, 2030, additionally exempt from those taxes qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, as defined, or storage and distribution, as defined, of electric power or purchased for use by a contractor for the qualified person, as specified. The bill, on and after January 1, 2018, and until July 1, 2030, would also exempt from those taxes special purpose buildings and foundations used for the generation or production or storage and distribution of electric power. The bill, on and after January 1, 2018, and until July 1, 2030, would expand the definition of qualified person to include, among others, a person primarily engaged in the business of electric power generation.

Under existing law, no later than each March 1 next following a calendar year for which these provisions provide an exemption, the California Department of Tax and Fee Administration is required to provide to the Joint Legislative Budget Committee a report of the total dollar amount of exemptions taken for the immediately preceding calendar year.

This bill would require the department to also provide that exemption report to the Department of Finance. The bill would require the total dollar amount, as reported by the department, with the concurrence of the Department of Finance, to be transferred from the Greenhouse Gas Reduction Fund to the General Fund, as provided.

This bill would also make various nonsubstantive and conforming changes and would repeal this exemption on January 1, 2031.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: yes Local Program: no

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

SECTION 1. Section 38501 of the Health and Safety Code is amended to read:

38501. The Legislature finds and declares all of the following:

(a) Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

(b) Global warming will have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for summer air-conditioning in the hottest parts of the state.

(c) California has long been a national and international leader on energy conservation and environmental stewardship efforts, including the areas of air quality protections, energy efficiency requirements, renewable energy standards, natural resource conservation, and greenhouse gas emission standards for passenger vehicles. The program established by this division will continue this tradition of environmental leadership by placing California at the forefront of national and international efforts to reduce emissions of greenhouse gases.

(d) National and international actions are necessary to fully address the issue of global warming. However, action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act.

(e) By exercising a global leadership role, California will also position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to reduce emissions of greenhouse gases. More importantly, investing

in the development of innovative and pioneering technologies will assist California in achieving statewide greenhouse gas emissions targets established by this division and will provide an opportunity for the state to take a global economic and technological leadership role in reducing emissions of greenhouse gases.

(f) It is the intent of the Legislature that the State Air Resources Board coordinate with state agencies, as well as consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing this division.

(g) It is the intent of the Legislature that the State Air Resources Board consult with the Public Utilities Commission in the development of emissions reduction measures, including limits on emissions of greenhouse gases applied to electricity and natural gas providers regulated by the Public Utilities Commission in order to ensure that electricity and natural gas providers are not required to meet duplicative or inconsistent regulatory requirements.

(h) It is the intent of the Legislature that the State Air Resources Board design emissions reduction measures to meet the statewide emissions limits for greenhouse gases established pursuant to this division in a manner that minimizes costs and maximizes benefits for California's economy, improves and modernizes California's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic cobenefits for California, and complements the state's efforts to improve air quality.

(i) It is the intent of the Legislature that the State Air Resources Board extend the market-based compliance mechanism adopted pursuant to subdivision (c) of Section 38562 from January 1, 2021, to December 31, 2030, inclusive, in a manner that effectively reduces greenhouse gas emissions; minimizes any adverse impacts on state consumers, businesses, and the economy; and continues elements of the current program that protect state utility ratepayers.

(j) It is the intent of the Legislature that the Climate Action Team established by the Governor to coordinate the efforts set forth under Executive Order S-3-05 continue its role in coordinating overall climate policy.

(k) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

SEC. 2. Section 38501 is added to the Health and Safety Code, to read:

38501. (a) Global warming poses a serious threat to the economic well-being, public health, natural resources, and the environment of California. The potential adverse impacts of global warming include the exacerbation of air quality problems, a reduction in the quality and supply of water to the state from the Sierra snowpack, a rise in sea levels resulting in the displacement of thousands of coastal businesses and residences, damage to marine ecosystems and the natural environment, and an increase in the incidences of infectious diseases, asthma, and other human health-related problems.

(b) Global warming will have detrimental effects on some of California's largest industries, including agriculture, wine, tourism, skiing, recreational and commercial fishing, and forestry. It will also increase the strain on electricity supplies necessary to meet the demand for summer air-conditioning in the hottest parts of the state.

(c) California has long been a national and international leader on energy conservation and environmental stewardship efforts, including the areas of air quality protections, energy efficiency requirements, renewable energy standards, natural resource conservation, and greenhouse gas emission standards for passenger vehicles. The program established by this division will continue this tradition of environmental leadership by placing California at the forefront of national and international efforts to reduce emissions of greenhouse gases.

(d) National and international actions are necessary to fully address the issue of global warming. However, action taken by California to reduce emissions of greenhouse gases will have far-reaching effects by encouraging other states, the federal government, and other countries to act.

(e) By exercising a global leadership role, California will also position its economy, technology centers, financial institutions, and businesses to benefit from national and international efforts to reduce emissions of greenhouse gases. More importantly, investing in the development of innovative and pioneering technologies will assist California in achieving the 2020 statewide limit on emissions of greenhouse gases established by this division and will provide an opportunity for the state to take a global economic and technological leadership role in reducing emissions of greenhouse gases.

(f) It is the intent of the Legislature that the State Air Resources Board coordinate with state agencies, as well as consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing this division.

(g) It is the intent of the Legislature that the State Air Resources Board consult with the Public Utilities Commission in the development of emissions reduction measures, including limits on emissions of greenhouse gases applied to electricity and

natural gas providers regulated by the Public Utilities Commission in order to ensure that electricity and natural gas providers are not required to meet duplicative or inconsistent regulatory requirements.

(h) It is the intent of the Legislature that the State Air Resources Board design emissions reduction measures to meet the statewide emissions limits for greenhouse gases established pursuant to this division in a manner that minimizes costs and maximizes benefits for California's economy, improves and modernizes California's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic cobenefits for California, and complements the state's efforts to improve air quality.

(i) It is the intent of the Legislature that the Climate Action Team established by the Governor to coordinate the efforts set forth under Executive Order S-3-05 continue its role in coordinating overall climate policy.

(j) This section shall become operative on January 1, 2031.

SEC. 3. Section 38505.5 is added to the Health and Safety Code, to read:

38505.5. (a) "District" has the same meaning as in Section 39025.

(b) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

SEC. 4. Section 38562 of the Health and Safety Code is amended to read:

38562. (a) On or before January 1, 2011, the state board shall adopt greenhouse gas emissions limits and emissions reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to become operative beginning on January 1, 2012.

(b) In adopting regulations pursuant to this section and Part 5 (commencing with Section 38570), to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:

(1) Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions.

(2) Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities.

(3) Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.

(4) Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.

(5) Consider cost-effectiveness of these regulations.

(6) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.

(7) Minimize the administrative burden of implementing and complying with these regulations.

(8) Minimize leakage.

(9) Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases.

(c) (1) Unless otherwise required by context, terms in this subdivision shall have the definitions that apply pursuant to Section 95802 of Title 17 of the California Code of Regulations, as they read on January 1, 2017.

(2) The state board may adopt a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit greenhouse gases, applicable from January 1, 2012, to December 31, 2030, inclusive, that the state board determines will achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions, in the aggregate, from those sources or categories of sources. In adopting a regulation applicable from January 1, 2021, to December 31, 2030, inclusive, pursuant to this subdivision, the state board shall do all of the following:

(A) (i) Establish a price ceiling. In establishing the price ceiling, the state board shall consider, using the best available science, all of the following:

(I) The need to avoid adverse impacts on resident households, businesses, and the state's economy.

(II) The 2020 tier prices of the allowance price containment reserve.

(III) The full social cost associated with emitting a metric ton of greenhouse gases.

(IV) The auction reserve price.

(V) The potential for environmental and economic leakage.

(VI) The cost per metric ton of greenhouse gas emissions reductions to achieve the statewide emissions targets established in Sections 38550 and 38566.

(ii) To implement the price ceiling, the state board shall develop a mechanism that consists of both of the following:

(I) Allowances remaining in the allowance price containment reserve as of December 31, 2020, shall be utilized solely for the purpose of sale at the price ceiling established by this section.

(II) If the allowances from the allowance price containment reserve are exhausted, the state board shall offer covered entities additional metric tons at the price ceiling if needed for compliance. All moneys generated pursuant to this clause shall be expended by the state board to achieve emissions reductions, on at least a metric ton for metric ton basis, that are real, permanent, quantifiable, verifiable, enforceable by the state board and in addition to any greenhouse gas emission reduction otherwise required by law or regulation and any other greenhouse gas emission reduction that otherwise would occur.

(B) Establish two price containment points at levels below the price ceiling. The state board shall offer to covered entities nontradable allowances for sale at these price containment points. The price containment points shall be established using two-thirds, divided equally, of the allowances in the allowance price containment reserve as of December 31, 2017.

(C) Require that current vintage allowances designated by the state board for auction that remain unsold in the auction holding account for more than 24 months to be transferred to the allowance price containment reserve.

(D) Evaluate and address concerns related to overallocation in the state board's determination of the number of available allowances for years 2021 to 2030, inclusive, as appropriate.

(E) (i) Establish offset credit limits according to the following:

(I) From January 1, 2021, to December 31, 2025, inclusive, a total of 4 percent of a covered entity's compliance obligation may be met by surrendering offset credits of which no more than one-half may be sourced from projects that do not provide direct environmental benefits in state.

(II) From January 1, 2026, to December 31, 2030, inclusive, a total of 6 percent of a covered entity's compliance obligation may be met by surrendering offset credits of which no more than one-half may be sourced from projects that do not provide direct environmental benefits in the state.

(ii) For purposes of this subparagraph, "direct environmental benefits in the state" are the reduction or avoidance of emissions of any air pollutant in the state or the reduction or avoidance of any pollutant that could have an adverse impact on waters of the state.

(F) Develop approaches to increase offset projects in the state considering guidance provided by the Compliance Offsets Protocol Task Force, established pursuant to Section 38591.1.

(G) Set industry assistance factors for allowance allocation commencing in 2021 at the levels applicable in the compliance period of 2015 to 2017, inclusive. The state board shall apply a declining cap adjustment factor to the industry allocation equivalent to the overall statewide emissions declining cap using the methodology from the compliance period of 2015 to 2017, inclusive.

(H) Establish allowance banking rules that discourage speculation, avoid financial windfalls, and consider the impact on complying entities and volatility in the market.

(I) Report to the Legislature, by December 31, 2025, on the progress toward meeting the greenhouse gas emissions reduction targets established pursuant to Sections 38550 and 38566 and the leakage risk posed by the regulation. The state board shall include recommendations to the Legislature on necessary statutory changes to the program to reduce leakage, including the potential for a border carbon adjustment, while maintaining the state's ability to reach its targets.

(J) (i) Report to the Legislature, in consultation with the Independent Emissions Market Advisory Committee, established pursuant to Section 38591.2, if two consecutive auctions exceed the lower of the price containment levels established pursuant to subparagraph (B). The report shall assess the potential for allowance prices to reach the price ceiling for multiple auctions.

(ii) A report submitted to the Legislature pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(K) Report to the relevant fiscal and policy committees of the Legislature, including the Joint Committee on Climate Change Policies, on all of the following:

(i) Updates to the scoping plan prepared pursuant to Section 38561 prior to adopting the update.

(ii) Updates on the implementation of the scoping plan prepared pursuant to Section 38561.

(iii) Updates on the implementation of the market-based compliance mechanism adopted pursuant to this subdivision.

(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:

(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.

(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

(3) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required pursuant to this division.

(e) The state board shall rely upon the best available economic and scientific information and its assessment of existing and projected technological capabilities when adopting the regulations required by this section.

(f) The state board shall consult with the Public Utilities Commission in the development of the regulations as they affect electricity and natural gas providers in order to minimize duplicative or inconsistent regulatory requirements.

(g) The state board may revise regulations adopted pursuant to this section and adopt additional regulations to further the provisions of this division.

(h) This section shall remain in effect only until January 1, 2031, and as of that date is repealed, unless a later enacted statute which is enacted before that date, deletes or extends that date.

SEC. 5. Section 38562 is added to the Health and Safety Code, to read:

38562. (a) On or before January 1, 2011, the state board shall adopt greenhouse gas emissions limits and emissions reduction measures by regulation to achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions in furtherance of achieving the statewide greenhouse gas emissions limit, to become operative beginning on January 1, 2012.

(b) In adopting regulations pursuant to this section and Part 5 (commencing with Section 38570), to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:

(1) Design the regulations, including distribution of emissions allowances where appropriate, in a manner that is equitable, seeks to minimize costs and maximize the total benefits to California, and encourages early action to reduce greenhouse gas emissions.

(2) Ensure that activities undertaken to comply with the regulations do not disproportionately impact low-income communities.

(3) Ensure that entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this section receive appropriate credit for early voluntary reductions.

(4) Ensure that activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and to reduce toxic air contaminant emissions.

(5) Consider cost-effectiveness of these regulations.

(6) Consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health.

(7) Minimize the administrative burden of implementing and complying with these regulations.

(8) Minimize leakage.

(9) Consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases.

(c) In furtherance of achieving the statewide greenhouse gas emissions limit, the state board may adopt a regulation that establishes a system of market-based declining annual aggregate emissions limits for sources or categories of sources that emit greenhouse gases, applicable from January 1, 2012, to December 31, 2020, inclusive, that the state board determines will achieve the maximum technologically feasible and cost-effective reductions in greenhouse gas emissions, in the aggregate, from those sources or categories of sources.

(d) Any regulation adopted by the state board pursuant to this part or Part 5 (commencing with Section 38570) shall ensure all of the following:

(1) The greenhouse gas emission reductions achieved are real, permanent, quantifiable, verifiable, and enforceable by the state board.

(2) For regulations pursuant to Part 5 (commencing with Section 38570), the reduction is in addition to any greenhouse gas emission reduction otherwise required by law or regulation, and any other greenhouse gas emission reduction that otherwise would occur.

(3) If applicable, the greenhouse gas emission reduction occurs over the same time period and is equivalent in amount to any direct emission reduction required pursuant to this division.

(e) The state board shall rely upon the best available economic and scientific information and its assessment of existing and projected technological capabilities when adopting the regulations required by this section.

(f) The state board shall consult with the Public Utilities Commission in the development of the regulations as they affect electricity and natural gas providers in order to minimize duplicative or inconsistent regulatory requirements.

(g) The state board may revise regulations adopted pursuant to this section and adopt additional regulations to further the provisions of this division.

(h) This section shall become operative on January 1, 2031.

SEC. 6. Section 38590.1 is added to the Health and Safety Code, to read:

38590.1. (a) It is the intent of the Legislature that moneys collected from the auction or sale of allowances pursuant to a market-based compliance mechanism established pursuant to the California Global Warming Solutions Act of 2006 (Division 25.5 (commencing with Section 38500)) shall be appropriated to include, but need not be limited to, the following priorities at the time an expenditure plan is adopted:

(1) Air toxic and criteria air pollutants from stationary and mobile sources.

(2) Low- and zero-carbon transportation alternatives.

(3) Sustainable agricultural practices that promote the transitions to clean technology, water efficiency, and improved air quality.

(4) Healthy forests and urban greening.

(5) Short-lived climate pollutants.

(6) Climate adaptation and resiliency.

(7) Climate and clean energy research.

(b) This section shall remain in effect only until January 1, 2031, and as of that date is repealed unless a later enacted statute that is enacted on or before that date deletes or extends that date.

SEC. 7. Section 38591.1 is added to the Health and Safety Code, to read:

38591.1. (a) The Compliance Offsets Protocol Task Force is hereby established to provide guidance to the state board in approving new offset protocols for a market-based compliance mechanism for the purposes of increasing offset projects with direct environmental benefits in the state while prioritizing disadvantaged communities, Native American or tribal lands, and rural and agricultural regions. The state board shall appoint members to the Compliance Offsets Protocol Task Force to include a representative from each stakeholder group, including, but not limited to, all of the following:

- (1) Scientists.
 - (2) Air pollution control and air quality management districts.
 - (3) Carbon market experts.
 - (4) Tribal representatives.
 - (5) Environmental Justice advocates.
 - (6) Labor and Workforce representatives.
 - (7) Forestry experts.
 - (8) Agriculture experts.
 - (9) Environmental advocates.
 - (10) Conservation advocates.
 - (11) Dairy experts.
- (b) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

SEC. 8. Section 38591.2 is added to the Health and Safety Code, to read:

38591.2. (a) The Independent Emissions Market Advisory Committee is hereby established within the California Environmental Protection Agency.

(b) (1) (A) The committee shall be composed of at least five experts on emissions trading market design appointed according to the following:

- (i) Three members appointed by the Governor.
 - (ii) One member appointed by the Senate Committee on Rules.
 - (iii) One member appointed by the Speaker of the Assembly.
- (B) The committee shall include a representative from the Legislative Analyst's Office.

(2) The committee members shall meet all of the following requirements:

- (A) Have academic, nonprofit, and other relevant backgrounds.
- (B) Lack financial conflicts of interest with entities subject to the regulation adopted by the state board pursuant to subdivision (c) of Section 38562.
- (c) The committee, at least annually, shall hold a public meeting and report to both the state board and the Joint Legislative Committee on Climate Change Policies on the environmental and economic performance of the regulation adopted by the state board pursuant to subdivision (c) of Section 38562 and other relevant climate policies.
- (d) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

SEC. 9. Section 38591.3 is added to the Health and Safety Code, to read:

38591.3. (a) No later than January 1, 2019, the California Workforce Development Board, in consultation with the state board, shall report to the Legislature on the need for increased education, career technical education, job training, and workforce development resources or capacity to help industry, workers, and communities transition to economic and labor-market changes related to statewide greenhouse gas emissions reduction goals, pursuant to Sections 38550 and 38566, and the scoping plan, adopted pursuant to Section 38561. The California Workforce Development Board shall ensure that the report aligns, as appropriate, with California's Unified Strategic Workforce Development Plan, developed by the California Workforce Development Board. The California Workforce Development Board and the state board shall work in consultation with all of the following:

- (1) State Department of Education.
- (2) California Community Colleges.

(3) Trustees of the California State University.

(4) Regents of the University of California.

(5) Governor's Office of Business and Economic Development.

(6) Interested stakeholders.

(b) The report to the Legislature shall address all of the following:

(1) Creating and retaining jobs and stimulating economic activity in the state.

(2) Imbedding workforce training and employment services in infrastructure investments so that services more directly connect to the jobs created.

(3) The use of community benefits agreements, community workforce agreements, and project labor agreements that connect workforce services and job training directly to jobs impacted or jobs created.

(4) Preparing the state's students with relevant career technical education that responds to business and industry demands.

(5) Developing worker retraining programs to assist the existing workforce with the necessary tools to upgrade their skills.

(6) Responding to the job creation and workforce needs of the state's new and emerging industries, including emerging technologies that will result in greater greenhouse gas emissions reductions.

(7) Developing job training programs to assist specific populations, such as at-risk youth, displaced workers, veterans, the formerly incarcerated, and others facing barriers to employment.

(8) Opportunities for community-based organizations to partner with local workforce agencies to improve the labor-market outcomes of targeted disadvantaged populations.

(9) Targeting workforce development programs and activities in disadvantaged communities, as identified pursuant to Section 39711, and communities that are located near entities regulated by the state board pursuant to this division.

(10) Identifying and leveraging state and federal funding resources to implement the recommendations made in the report consistent with the regulatory purposes of this division.

(c) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

SEC. 10. Section 38592.5 is added to the Health and Safety Code, to read:

38592.5. (a) (1) No later than January 1, 2018, the state board shall update the scoping plan, prepared pursuant to Section 38561, to achieve the greenhouse gas emissions reductions required pursuant to Section 38566. The state board shall designate the market-based compliance mechanism adopted pursuant to subdivision (c) of Section 38562 as the rule for petroleum refineries and oil and gas production facilities to achieve their greenhouse gas emissions reductions.

(2) All greenhouse gas rules and regulations adopted by the state board shall be consistent with the updated scoping plan.

(3) Nothing in this section shall limit the state board's authority to adopt, maintain, or revise any other measure, including, but not limited to, any of the following:

(A) Measures governing methane and fugitive emissions at refineries and oil and gas facilities.

(B) Advanced clean cars program adopted by the state board.

(C) Low-Carbon Fuel Standard regulations (Subarticle 7 (commencing with Section 95480) of Article 4 of Subchapter 10 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations).

(D) Regulations addressing short-lived climate pollutants.

(E) Implementation of the sustainable freight action plan released in July 2015 pursuant to Executive Order B-32-15.

(b) This section shall remain in effect only until January 1, 2031, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2031, deletes or extends that date.

SEC. 11. Section 38592.6 is added to the Health and Safety Code, to read:

38592.6. (a) The Legislative Analyst's Office shall, until January 1, 2030, annually report to the Legislature on the economic impacts and benefits of the greenhouse gas emissions targets established pursuant to Sections 38550 and 38566.

(b) This section shall remain in effect only until January 1, 2031, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2031, deletes or extends that date.

SEC. 12. Section 38594 of the Health and Safety Code is amended to read:

38594. (a) Except as provided in subdivision (b), nothing in this division shall limit or expand the existing authority of any district.

(b) A district shall not adopt or implement an emission reduction rule for carbon dioxide from stationary sources that are also subject to a market-based compliance mechanism adopted by the state board pursuant to subdivision (c) of Section 38562.

(c) Nothing in this section affects in any manner the authority of a district to adopt or implement, as applicable, any of the following:

(1) A rule, regulation, standard, or requirement authorized or required for a district to adopt under Division 26 (commencing with Section 39000) for purposes other than to reduce carbon dioxide from sources subject to a market-based compliance mechanism adopted by the state board pursuant to subdivision (c) of Section 38562.

(2) A rule, regulation, standard, or requirement authorized pursuant to a law affecting emissions associated with landfills, refrigerants, natural gas or methane, volatile organic compounds, or a rule required to comply with the federal Clean Air Act (42 U.S.C. Sec. 7401 et seq.) or regulations implementing that act.

(3) A rule, regulation, standard, or requirement authorized pursuant to a law to reduce vehicle trips, vehicle miles traveled, parking, or vehicular air emissions, including, but not limited to, a rule adopted pursuant to Chapter 728 of the Statutes of 2008.

(4) A rule, regulation, standard, or requirement established pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(5) A rule, regulation, standard, or requirement adopted by any state agency.

(d) This section shall become inoperative if the state board repeals the market-based compliance mechanism adopted by the state board pursuant to subdivision (c) of Section 38562. The state board shall notify the Secretary of State if this section becomes inoperative.

(e) This section shall remain in effect only until January 1, 2031, and as of that date is repealed.

SEC. 13. Section 38594 is added to the Health and Safety Code, to read:

38594. (a) Nothing in this division shall limit or expand the existing authority of any district, as defined in Section 39025.

(b) This section shall become operative on January 1, 2031.

SEC. 14. Section 4213.05 is added to the Public Resources Code, to read:

4213.05. (a) Commencing with the 2017–18 fiscal year, the fire prevention fee imposed pursuant to Section 4212 shall be suspended, effective July 1, 2017. Any moneys held in reserve in the State Responsibility Area Fire Responsibility Fund shall be appropriated by the Legislature in a manner consistent with subdivision (d) of Section 4214.

(b) It is the intent of the Legislature that moneys derived from the auction or sale of allowances pursuant to a market-based compliance mechanism established pursuant to Division 25.5 (commencing with Section 38500) of the Health and Safety Code shall be used to replace the moneys that would have otherwise been collected under Section 4212 to continue fire prevention activities.

(c) This section shall become inoperative on January 1, 2031.

SEC. 15. Article 3 (commencing with Section 4229) is added to Chapter 1.5 of Part 2 of Division 4 of the Public Resources Code, to read:

Article 3. Repeal

4229. This chapter shall remain in effect only until January 1, 2031, and as of that date is repealed, unless a later enacted statute that is enacted on or before January 1, 2031, deletes or extends that date.

SEC. 16. Section 6377.1 of the Revenue and Taxation Code is amended to read:

6377.1. (a) Except as provided in subdivision (e), on or after July 1, 2014, and before July 1, 2030, there are exempted from the taxes imposed by this part the gross receipts from the sale of, and the storage, use, or other consumption in this state of, any of the following:

(1) Qualified tangible personal property purchased for use by a qualified person to be used primarily in any stage of the manufacturing, processing, refining, fabricating, or recycling of tangible personal property, beginning at the point any raw materials are received by the qualified person and introduced into the process and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling has altered tangible personal property to its completed form, including packaging, if required.

(2) Qualified tangible personal property purchased for use by a qualified person to be used primarily in research and development.

(3) Qualified tangible personal property purchased for use by a qualified person to be used primarily to maintain, repair, measure, or test any qualified tangible personal property described in paragraph (1) or (2).

(4) Qualified tangible personal property purchased for use by a contractor purchasing that property for use in the performance of a construction contract for the qualified person, that will use that property as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, the generation or production, or storage and distribution, of electric power, or as a research or storage facility for use in connection with those processes.

(5) Qualified tangible personal property purchased for use by a qualified person to be used primarily in the generation or production, or storage and distribution, of electric power.

(b) For purposes of this section:

(1) "Department" means the California Department of Tax and Fee Administration.

(2) "Fabricating" means to make, build, create, produce, or assemble components or tangible personal property to work in a new or different manner.

(3) "Generation or production" means the activity of making, producing, creating, or converting electric power from sources other than a conventional power source, as defined in Section 2805 of the Public Utilities Code.

(4) "Manufacturing" means the activity of converting or conditioning tangible personal property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(5) "Primarily" means 50 percent or more of the time.

(6) "Process" means the period beginning at the point at which any raw materials are received by the qualified person and introduced into the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person and ending at the point at which the manufacturing, processing, refining, fabricating, or recycling activity of the qualified person has altered tangible personal property to its completed form, including packaging, if required. Raw materials shall be considered to have been introduced into the process when the raw materials are stored on the same premises where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted. Raw materials that are stored on premises other than where the qualified person's manufacturing, processing, refining, fabricating, or recycling activity is conducted shall not be considered to have been introduced into the manufacturing, processing, refining, fabricating, or recycling process.

(7) "Processing" means the physical application of the materials and labor necessary to modify or change the characteristics of tangible personal property.

(8) (A) "Qualified person" means:

(i) Prior to January 1, 2018, a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(ii) On and after January 1, 2018, and before July 1, 2030, a person that is primarily engaged in those lines of business described in Codes 3111 to 3399, inclusive, 22111 to 221118, inclusive, 221122, 541711, or 541712 of the North American Industry Classification System (NAICS) published by the United States Office of Management and Budget (OMB), 2012 edition.

(B) Notwithstanding subparagraph (A), "qualified person" shall not include either of the following:

(i) Prior to January 1, 2018, an apportioning trade or business that is required to apportion its business income pursuant to subdivision (b) of Section 25128 or a trade or business conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(ii) On and after January 1, 2018, and before July 1, 2030, an apportioning trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, that is required to apportion its business income pursuant to subdivision (b) of Section 25128, or a trade or business, other than a trade or business described in paragraph (1) of subdivision (c) of Section 25128, conducted wholly within this state that would be required to apportion its business income pursuant to subdivision (b) of Section 25128 if it were subject to apportionment pursuant to Section 25101.

(9) (A) "Qualified tangible personal property" includes, but is not limited to, all of the following:

(i) Machinery and equipment, including component parts and contrivances such as belts, shafts, moving parts, and operating structures.

(ii) Equipment or devices used or required to operate, control, regulate, or maintain the machinery, including, but not limited to, computers, data-processing equipment, and computer software, together with all repair and replacement parts with a useful life of one or more years therefor, whether purchased separately or in conjunction with a complete machine and regardless of whether the machine or component parts are assembled by the qualified person or another party.

(iii) Tangible personal property used in pollution control that meets standards established by this state or any local or regional governmental agency within this state.

(iv) (I) Prior to January 1, 2018, special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes. Buildings used solely for warehousing purposes after completion of those processes are not included.

(II) On and after January 1, 2018, and before July 1, 2030, special purpose buildings and foundations used as an integral part of the manufacturing, processing, refining, fabricating, or recycling process, or that constitute a research or storage facility used during those processes, or the generation or production or storage and distribution of electric power. Buildings used solely for warehousing purposes after completion of those processes are not included.

(B) "Qualified tangible personal property" shall not include any of the following:

(i) Consumables with a useful life of less than one year.

(ii) Furniture, inventory, and equipment used in the extraction process, or equipment used to store finished products that have completed the manufacturing, processing, refining, fabricating, or recycling process.

(iii) Tangible personal property used primarily in administration, general management, or marketing.

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product.

(11) "Research and development" means those activities that are described in Section 174 of the Internal Revenue Code or in any regulations thereunder.

(12) "Storage and distribution" means storing or distributing through the electric grid, but not transmission of, electric power to consumers regardless of source.

(13) (A) "Useful life" for tangible personal property that is treated as having a useful life of one or more years for state income or franchise tax purposes shall be deemed to have a useful life of one or more years for purposes of this section. "Useful life" for tangible personal property that is treated as having a useful life of less than one year for state income or franchise tax purposes shall be deemed to have a useful life of less than one year for purposes of this section. For the purposes of this paragraph, tangible personal property that is deducted under Sections 17201 and 17255 or Section 24356 shall be deemed to have a useful life of one or more years.

(B) The board shall cancel any outstanding and unpaid deficiency determination and any related penalties and interest and shall not issue any deficiency determination or notice of determination, with respect to unpaid sales and use tax on qualified property with a useful life, as defined in subparagraph (A), that was purchased or leased on or after July 1, 2014, and before January 1, 2018. Any amounts paid by a qualified person pursuant to such determination shall be refunded by the department to the qualified person. Any cancellation or refund described in this subparagraph is contingent upon a qualified person making a request to the department, in a manner prescribed by the department, by June 30, 2018.

(c) An exemption shall not be allowed under this section unless the purchaser furnishes the retailer with an exemption certificate, completed in accordance with any instructions or regulations as the department may prescribe, and the retailer retains the

exemption certificate in its records and furnishes it to the department upon request.

(d) (1) Notwithstanding the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200)) and the Transactions and Use Tax Law (Part 1.6 (commencing with Section 7251)), the exemption established by this section shall not apply with respect to any tax levied by a county, city, or district pursuant to, or in accordance with, either of those laws.

(2) Notwithstanding subdivision (a), the exemption established by this section shall not apply with respect to any tax levied pursuant to Section 6051.2, 6051.5, 6201.2, or 6201.5, pursuant to Section 35 of Article XIII of the California Constitution, or any tax levied pursuant to Section 6051 or 6201 that is deposited in the State Treasury to the credit of the Local Revenue Fund 2011 pursuant to Section 6051.15 or 6201.15.

(e) (1) The exemption provided by this section shall not apply to either of the following:

(A) Any tangible personal property purchased during any calendar year that exceeds two hundred million dollars (\$200,000,000) of purchases of qualified tangible personal property for which an exemption is claimed by a qualified person under this section. For purposes of this subparagraph, in the case of a qualified person that is required to be included in a combined report under Section 25101 or authorized to be included in a combined report under Section 25101.15, the aggregate of all purchases of qualified personal property for which an exemption is claimed pursuant to this section by all persons that are required or authorized to be included in a combined report shall not exceed two hundred million dollars (\$200,000,000) in any calendar year.

(B) The sale or storage, use, or other consumption of property that, within one year from the date of purchase, is removed from California, converted from an exempt use under subdivision (a) to some other use not qualifying for exemption, or used in a manner not qualifying for exemption.

(2) If a purchaser certifies in writing to the seller that the tangible personal property purchased without payment of the tax will be used in a manner entitling the seller to regard the gross receipts from the sale as exempt from the sales tax, and the purchase exceeds the two-hundred-million-dollar (\$200,000,000) limitation described in subparagraph (A) of paragraph (1), or within one year from the date of purchase, the purchaser removes that property from California, converts that property for use in a manner not qualifying for the exemption, or uses that property in a manner not qualifying for the exemption, the purchaser shall be liable for payment of sales tax, with applicable interest, as if the purchaser were a retailer making a retail sale of the tangible personal property at the time the tangible personal property is so purchased, removed, converted, or used, and the cost of the tangible personal property to the purchaser shall be deemed the gross receipts from that retail sale.

(f) This section shall apply to leases of qualified tangible personal property classified as "continuing sales" and "continuing purchases" in accordance with Sections 6006.1 and 6010.1. The exemption established by this section shall apply to the rentals payable pursuant to the lease, provided the lessee is a qualified person and the tangible personal property is used in an activity described in subdivision (a).

(g) (1) Upon the effective date of this section, the Department of Finance shall estimate the total dollar amount of exemptions that will be taken for each calendar year, or any portion thereof, for which this section provides an exemption.

(2) (A) No later than each March 1 next following a calendar year for which this section provides an exemption, the department shall provide to the Joint Legislative Budget Committee and to the Department of Finance a report of the total dollar amount of exemptions taken under this section for the immediately preceding calendar year. The report shall compare the total dollar amount of exemptions taken under this section for that calendar year with the department's estimate for that same calendar year. If that total dollar amount taken is less than the estimate for that calendar year, the report shall identify options for increasing exemptions taken so as to meet estimated amounts.

(B) No later than June 30 of that same calendar year, that total dollar amount, notwithstanding subparagraph (A) of paragraph (13) of subdivision (b), as reported by the department, with the concurrence of the Department of Finance, shall be transferred from the Greenhouse Gas Reduction Fund to the General Fund.

(h) This section is repealed on January 1, 2031.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

To secure a greater reduction in greenhouse gas emissions to prevent catastrophic climate change, it is necessary for this act to take effect immediately.