Senate Budget and Fiscal Review—Scott Wiener, Chair
SUBCOMMITTEE NO. 2 **Agenda**

Senator Ben Allen, Chair
Senator Catherine Blakespear
Senator Steven Choi
Senator Jerry McNerney

Thursday, May 1, 2025
9:30 a.m. or Upon Adjournment of Session
1021 O Street - Room 2200

Consultant: Eunice Roh

Item **Department** **Page**

ITEMS FOR DISCUSSION

ITEMS FOR PUBLIC COMMENT

ITEMS FOR DISCUSSION

VARIOUS DEPARTMENTS

Issue 1: Cap-and-Trade Spending Plan

Governor's Proposal. The Governor's Budget includes $1.8 billion in discretionary Greenhouse Gas Reduction Fund (GGRF) expenditures, in addition to $2.4 billion continuous appropriations and $430 million in statutory obligations. The proposed spending plan generally aligns with the multi-year commitments made in prior years, with the exception of two changes: a $32 million shift from GGRF to Proposition 4 for the Clean Energy Reliability Investment Plan and an $81 million shift from the GGRF to the Motor Vehicle Account (MVA), to address fund insolvency in the budget year.

Background. According to the LAO:

Expenditures for Most Cap-and-Trade Auction Revenues Are Directed by Statute. The California Air Resources Board (CARB) holds quarterly cap-and-trade auctions. The revenues from these auctions are deposited into GGRF and generally are allocated to climate-related programs. Over the past three years, individual quarterly auctions have generated an average of $1.1 billion in revenue, with annual amounts averaging $4.4 billion. Under current law, most GGRF is allocated to specific programs, as shown in Figure 1. The remaining revenue is available for appropriation by the Legislature for discretionary spending programs, as well as to cover state administrative costs, through the annual budget process.

Figure 1

Continuous Appropriations and Other Statutorily Required GGRF Appropriations

Program	Department	Appropriation Amount
High-speed rail project	HSRA	25 percent of annual revenues
Affordable Housing and Sustainable Communities Program	SGC	20 percent of annual revenues
TIRCP	CalSTA	10 percent of annual revenues
Low Carbon Transit Operations Program	Caltrans	5 percent of annual revenues
Healthy and resilient forest activities	CalFire	$200 million
Safe and Affordable Drinking Water Program	SWRCB	5 percent of annual revenues (up to $130 million)
Manufacturing tax credit	N/A	Roughly $100-$140 million
State Responsibility Area fee backfill	CalFire	Roughly $70-$90 million

GGRF = Greenhouse Gas Reduction Fund; HSRA = High-Speed Rail Authority; SGC = Strategic Growth Council; TIRCP = Transit and Intercity Rail Capital Program; CalSTA = California State Transportation Agency; Caltrans = California Department of Transportation; CalFire = California Department of Forestry and Fire Prevention; SWRCB = State Water Resources and Control Board; and N/A = not applicable.

Past Two Budget Agreements Included Plans for Spending Out-Year Discretionary GGRF. The past two budget agreements—2023-24 and 2024-25—not only appropriated GGRF to discretionary programs for those respective budget years, but also included plans to dedicate a large share of out-year discretionary GGRF revenues for specific purposes. This contrasts with the historical practice of allocating funding on a year-by-year basis. As shown in Figure 2, the bulk of the agreed-upon planned GGRF spending would backfill reductions to expenditures that were previously planned to be made from the General Fund for a wide variety of activities. These actions were taken with the intent of sustaining previous multiyear spending commitments while achieving General Fund savings in response to the deficit and worsening budget condition.

Figure 2

Discretionary Greenhouse Gas Reduction Fund Expenditure Plan as of *2024-25 Budget Act*

(In Millions)

Program	Department	2024-25	2025-26	2026-27	2027-28	2028-29
Fund Shifts From General Fund		**$2,434**	**$1,504**	**$1,314**	**$1,089**	**$650**
Climate Packages		**$1,371**	**$1,051**	**$952**	**$989**	**—**
Drinking water/wastewater projects (Water)	SWRCB	$225	$30	—	—	—
Drayage trucks & infrastructure (ZEV)	CEC	157[a]	—	—	—	—
Flood projects (Water)	DWR	126	—	—	—	—
ZEV fueling infrastructure grants (ZEV)	CEC	120[a]	—	—	$99	—
Habitat restoration projects (NBA)	DWR	103	—	—	—	—
Streamflow Enhancement Program (Water)	WCB	101	—	—	—	—
Demand side grid support (Energy)	CEC	75	75	—	—	—
Clean trucks/buses/off-road equipment (ZEV)	CEC	71[a]	—	—	—	—
Protecting wildlife (NBA)	WCB	70	—	—	—	—
Emerging opportunities (ZEV)	CARB	53	—	—	—	—
Fire prevention grants (Wildfire)	CalFire	40	—	—	42	—
Transit buses & infrastructure (ZEV)	CEC	29[a]	—	—	—	—
Ocean protection activities (Coastal)	OPC	28	—	37	—	—
Extreme heat/community resilience (Extreme heat)	OPR	25	—	—	—	—
Equitable Building Decarbonization (Energy)	CEC	25	—	—	93	—
Long duration storage (Energy)	CEC	23[a]	26	—	—	—
Carbon removal innovation (Energy)	CEC	20[a]	—	—	—	—
Prescribed fire pilot; monitoring & research (Wildfire)	CalFire	26	—	—	—	—
Wetlands restoration (NBA)	CDFW	17		—	—	—
Livestock methane reduction (Agriculture)	CDFA	17	7	—	—	—
Climate Action Corps (Community Resilience)	OPR	9	9	9	9	—
Salton Sea activities (Water)	DWR	7	—	—	—	—
ZEV programs (ZEV)	CEC	—	385	299	387	—
ZEV programs (ZEV)	CARB	—	215	301	213	—
Distributed Electricity Backup Assets (Energy)	CEC	—	200	180	—	—
Hydrogen grants (Energy)	CEC	5	34	—	—	—
Oroville pump storage (Energy)	DWR	—	30	100	100	—
Watershed climate resilience (Water)	WCB	—	15	—	—	—
Water recycling/groundwater cleanup (Water)	SWRCB	—	15	—	—	—
Tribal engagement (Wildfire)	CalFire	—	10	—	—	—
SWEEP (Water)	CDFA	—	—	21	—	—
Environmental justice grants (Community Resilience)	CalEPA	—	—	5	—	—
Unit fire prevention projects (Wildfire)	CalFire	—	—	—	26	—
Regional Forest and Fire Capacity (Wildfire)	DOC	—	—	—	20	—
Transportation and Other Environmental Programs		**$1,063**	**$453**	**$363**	**$100**	**$650**
Competitive and formula-based TIRCP	CalSTA	$958[a]	$368	$20	—	—
Vulnerable community toxic cleanup	DTSC	65	—	43	—	—
Diablo Canyon land conservation	Various	40	10	50	$50	—
CERIP	CEC	—	50	150	50	$650
Highways to Boulevards	Caltrans	—	25	50	—	—
Oil well plug/abandonment	DOC	—	—	50	—	—

(Continued)

Program	Department	2024-25	2025-26	2026-27	2027-28	2028-29
Non-Fund Shifts		**$315**	**$278**	**$480**	**$710**	**$275**
AB 617—Community Air Protection	CARB	$250	$250	$250	$250	$250
Zero Emission Transit Capital Program	CalSTA	—	—	230	460	—
Salton Sea activities	Various	65	3	—	—	—
Community renewable energy	CPUC	—	25	—	—	25
Totals		**$2,750**	**$1,783**	**$1,794**	**$1,799**	**$925**

[a] Includes funding scored in 2023-24.

SWRCB = State Water Resources Control Board; ZEV = zero-emission vehicles; CEC = California Energy Commission; DWR = Department of Water Resources; NBA = nature-based activities; WCB = Wildlife Conservation Board; SWEEP = State Water Efficiency and Enhancement Program; CARB = California Air Resources Board; CalFire = California Department of Forestry and Fire Protection; OPC = Ocean Protection Council; OPR = Governor's Office of Planning and Research; CDFW = California Department of Fish and Wildlife; CDFA = California Department of Food and Agriculture; CalEPA = California Environmental Protection Agency; DOC = Department of Conservation; TIRCP = Transit and Intercity Rail Capital Program; CalSTA = California State Transportation Agency; DTSC = Department of Toxic Substances Control; CERIP = Clean Energy Reliability Investment Plan; Caltrans = California Department of Transportation; and CPUC = California Public Utilities Commission.

Governor Proposes $1.8 Billion Discretionary Spending in 2025-26. As shown in Figure 3, the Governor proposes spending $4.8 billion from GGRF in 2025-26. Of this amount, the proposal provides $2.6 billion for continuous appropriations, $346 million for other existing statutory commitments, and $1.8 billion for discretionary spending. Almost all of the proposed 2025-26 discretionary spending would be used to implement agreements that were part of the 2024-25 budget package, as detailed in Figure 2. Based on the administration's revenue assumptions and proposed expenditures, it estimates GGRF would maintain a balance (also known as a reserve) of roughly $160 million at the end of 2025-26.

Adds Two Proposed Fund Shifts Aimed at Supporting MVA. The Governor proposes two modifications to the cap-and-trade expenditure plan agreed to as part of the 2024-25 budget. Both are GGRF-related fund shifts with the goal of supporting CARB activities typically funded by MVA. (As we discuss in our February 2025 publication, *The 2025-26 Budget: Transportation Proposals*, MVA continues to be structurally imbalanced and faces insolvency in the budget year absent corrective action.) The two proposals include:

- ***Clean Energy Reliability Investment Plan (CERIP) Fund Shift ($32 Million Shift From GGRF to Proposition 4).*** The Governor proposes shifting $32 million of planned spending to implement CERIP from GGRF to Proposition 4. (The Legislature established CERIP in 2022 to support various activities aimed at helping the state reach its clean energy goals.) Along with this proposed fund shift, the Governor would designate the funding specifically for the Demand Side Grid Support Program. (Previous budget agreements included intent to provide GGRF for CERIP-related activities in 2025-26 but deferred decisions on which specific activities would be funded to future budget deliberations.) This proposal would reduce pressure on GGRF by $32 million in 2025-26. (Please see our February 2025 report, *The 2025-26 Budget: Proposition 4 Spending Plan*, for further discussion of these shifts.)

- ***MVA Offset ($81 Million Shift From GGRF to MVA).*** The Governor proposes to transfer a total of $81 million from GGRF to MVA in 2025-26. This consists of the $32 million that would be "freed up" by the CERIP fund shift discussed above, along with $49 million from projected additional unallocated discretionary GGRF revenues. These transfers would pay for the costs of CARB's Mobile Source Program, which is intended to reduce emissions from on- and off-road mobile sources. (Separately, the Governor also proposes to transfer $85 million from CARB's Air Pollution Control Fund to further address MVA shortfalls.)

Figure 3

Governor's Proposed 2025-26 Cap-and-Trade Expenditure Plan

(In Millions)

	Department	Proposed in 2025-26 Budget
Continuous Appropriations[a]		**$2,576**
High-speed rail project	HSRA	$936
Affordable Housing and Sustainable Communities Program	SGC	749
TIRCP	CalSTA	374
Healthy and resilient forests activities	CalFire	200
Low Carbon Transit Operations Program	CalTrans	187
Safe and Affordable Drinking Water Program	SWRCB	130
Other Existing Statutory Commitments		**$346**
Manufacturing tax credit	N/A	$141
Baseline operations	Various	117
State Responsibility Area fee backfill	CalFire	88
Discretionary Appropriations		**$1,832**
2024-25 Budget Agreement		**$1,783**
Fund shifts from General Fund (climate packages)	Various	$1,504
Non-fund shifts	Various	278
New Proposals		**$49**
Motor Vehicle Account offset	CARB	$81
CERIP	CEC	-32[b]
Total		**$4,754**

[a] Based on Governor's revenue assumption of $4.2 billion in 2025-26.

[b] Governor proposes shifting $32 million of planned spending on CERIP from GGRF to Proposition 4.

HSRA = High Speed Rail Authority; SGC = Strategic Growth Council; TIRCP = Transit and Intercity Rail Capital Program; CalSTA = California State Transportation Agency; CalFire = California Department of Forestry and Fire Prevention; SWRCB = State Water Resources and Control Board; N/A = not applicable; CARB = California Air Resources Board; CERIP = Clean Energy Reliability Investment Plan; and CEC = California Energy Commission.

LAO Assessment.

Governor's Proposal Maintains Agreed-Upon Expenditure Plan. We find the Governor's GGRF proposal to be largely consistent with the expenditure plan agreed to in 2024-25. (The one relatively small modification is related to the proposed fund shift for CERIP.) Assuming GGRF revenues are adequate and the Legislature's priorities remain unchanged, maintaining these previous spending plans is both reasonable and appropriate. However, should the budget condition or prioritization of potential activities change, the Legislature may want to revisit these intentions.

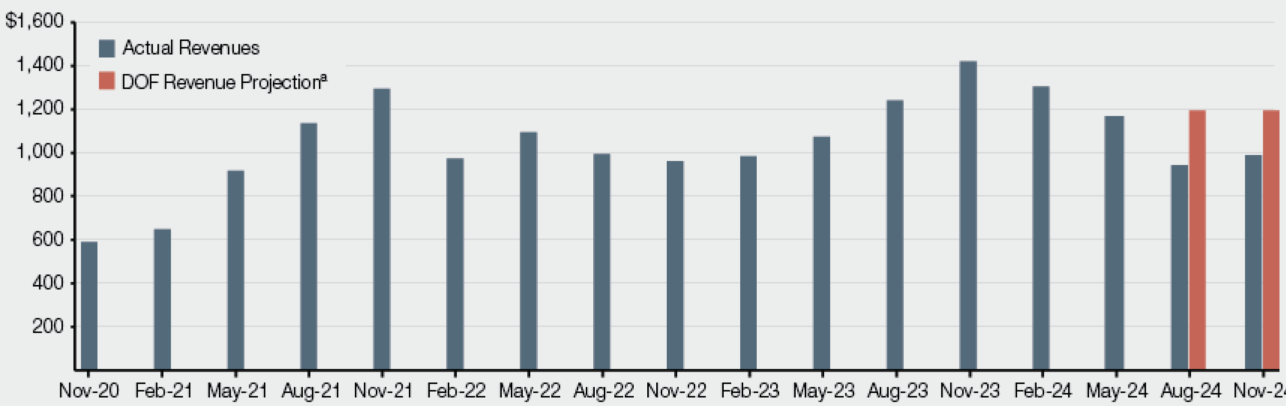
Using GGRF to Backfill MVA Comes With Trade-Offs. The proposed fund shifts come with notable trade-offs, as we discuss in further detail in *The 2025-26 Budget: Transportation Proposals*. For example, a key advantage is that they allow the state to continue to keep MVA balanced in 2025-26 without raising vehicle fees or reducing service levels. However, some key disadvantages include that (1) the amount shifted to Proposition 4 results in the bond funds being used to sustain existing commitments rather than to enhance the state's climate efforts, (2) using unallocated projected discretionary GGRF revenues for this purpose means they are not available for other purposes, and (3) sustaining the proposed level of expenditures from GGRF in 2025-26 may be difficult if revenues fail to strengthen, as discussed below.

2024-25 GGRF Revenues Are Coming in Below Projections. The Department of Finance (DOF) estimates future GGRF revenues based on an average of actual allowance prices from auctions that occurred in the previous calendar year. In general, we find this methodology to be a reasonable approach. However, the past two auctions have reflected some weakening in allowance prices compared to the auctions that took place during the prior year. Specifically, DOF projected 2024-25 auction prices of about $38 per allowance, but actual prices at the first two quarterly auctions of the fiscal year were roughly $31. Accordingly, as shown in Figure 4, GGRF revenues in 2024-25 have been somewhat lower than the administration's projections last spring that formed the basis of the *2024-25 Budget Act's* GGRF spending package.

Figure 4

Recent Quarterly GGRF Auction Revenues Underperformed Projections

(In Millions)



[a] DOF forecast as of the 2024-25 Budget Act.

GGRF = Greenhouse Gas Reduction Fund and DOF = Department of Finance.

LAO

If Revenue Trends Continue at Modest Decline, Planned Current-Year Expenditures Likely Still Feasible… Two auctions remain in the 2024-25 fiscal year—February and May. We estimate that even if allowance prices continue to trail the *2024-25 Budget Act's* assumptions, if they remain at comparable levels to the past two auctions (roughly $31), GGRF likely will be able to continue to support the expenditures that currently are planned for 2024-25. This is in part because many of the continuous appropriations are calculated as a percentage of GGRF revenues and thus automatically adjust downward when revenues decline. However, should allowance prices decline more steeply than occurred in the August and November 2024 auctions, modifications to planned expenditures for 2024-25 could potentially be necessary. DOF could address such a circumstance through Control Section 15.14 of the annual budget act, which provides a mechanism for DOF to make midyear reductions if auction revenues are insufficient to support discretionary GGRF spending at the budgeted levels.

…But Revisiting GGRF Spending Plan for 2025-26 Could Be Necessary Depending on February and May Auction Results. If the somewhat lower allowance prices that the state has experienced over the past two auctions persist into 2025-26, we estimate that revenues may not be sufficient to fund existing statutory commitments and the budget-year spending plan agreed to in the 2024-25 budget package. Specifically, we estimate that if the allowance prices seen at the past two auctions persist throughout 2025-26, in adopting the final budget plan the Legislature and Governor would need to reduce the Governor's proposed 2025-26 expenditures by nearly $200 million to prevent a negative fund balance for GGRF at the end of the fiscal year. Since GGRF revenues are subject to substantial uncertainty, as we discuss in greater detail below, revenues could be notably higher or lower than recent trends. Further declines in revenues compared to what has been the case thus far would necessitate additional reductions to planned expenditures, whereas increases in revenues could potentially result in additional monies becoming available for discretionary purposes.

Substantial and Increasing Degree of Uncertainty Around GGRF Revenues. Predicting how the cap-and-trade market will behave and forecasting corresponding GGRF revenues are always subject to some uncertainty. However, a couple of factors may contribute to more uncertainty than usual for this exercise over the next several years. The Legislature may want to keep these uncertainties in mind as it makes its GGRF budgeting decisions. In particular:

- ***CARB Considering Cap-and-Trade Program Changes.*** CARB has indicated that it intends to begin a rulemaking process for potential amendments to the cap-and-trade program that would influence allowance prices. These include potential changes to the number of allowances the state makes available and the allocation of those allowances.

- ***2030 Expiration of Statutory Authorization.*** Before the Legislature last extended the statutory authorization for the cap-and-trade program in 2017, revenues from GGRF began to decline due to investor uncertainty about the status of the program. Should considerable uncertainty about the fate of the program exist as its next statutory end-date approaches (2030), a similar downward pressure on revenues could emerge.

- ***Linkage With Washington State.*** CARB has indicated that it is discussing linking California's cap-and-trade program with the program in Washington state. Such action could affect allowance prices in both states as they come into alignment.

Revisiting Spending Plan Also Could Make Sense if Budget Condition Worsens. As of January 2025, both our office and DOF projected that the state's General Fund will be roughly balanced in 2025-26 under the Governor's budget proposal. However, various factors could change over the coming months that could affect the condition of the state's General Fund. For example, if the costs of responding to and recovering from the January 2025 wildfires that affected the Los Angeles region are higher than anticipated or state revenues come in lower than projected, the state's budget condition could worsen. Additionally, our office and DOF project out-year deficits of over $10 billion annually over the next few years. To the extent the state's budget condition weakens in the coming months, the Legislature could consider modifying its GGRF spending plan. For example, if revenue declines result in the state facing a large budget problem that necessitates cuts to ongoing programs, the Legislature could consider forestalling those reductions by redirecting GGRF to help sustain higher-priority activities.

LAO Recommendations.

Monitor Auctions and General Fund Condition Over Coming Months. Given the growing uncertainty around cap-and-trade revenues, we recommend the Legislature continue to closely monitor quarterly auctions to assess how revenues are materializing. To the extent that revenues from the February and May 2025 auctions deviate from projections, the 2025-26 GGRF spending levels may not be able to support the plans included in the 2024-25 budget agreement.

Additionally, we recommend that the Legislature consider updated information on the condition of the General Fund as it becomes available over the coming months before it finalizes its GGRF spending plan. In the event that the General Fund condition deteriorates notably, the Legislature could consider redirecting GGRF as a tool to help sustain its highest-priority activities.

Adopt GGRF Spending Plan Consistent With Legislative Priorities. Ultimately, once the picture is clearer regarding GGRF revenues as well as the General Fund condition, we recommend the Legislature adopt a GGRF expenditure plan that is consistent with its intent and priorities. This will include assessing strategies for supporting the MVA and the programs that account historically has supported, and the degree to which the Legislature is comfortable with the trade-offs associated with the Governor's proposed fund shifts.

Staff Comment. The Governor's proposed GGRF expenditure plan largely maintains the multi-year commitments made in the 2024-25 budget, with the exception of two items—(1) backfilling a $32 million prior GGRF commitment with Proposition 4 funds and (2) transferring $81 million to the MVA to help address the impending fund deficit. As the Legislature considers this year's expenditure plan, it may want to consider whether these changes align with its priorities, as well as if there are any additional changes that may be needed.

For example, the Legislature may want to consider how the GGRF expenditure plan currently allocates funding towards ZEV programs. The 2025-26 GGRF expenditure plan includes significant discretionary spending for zero-emission vehicle programs at CARB ($215 million) and CEC ($385 million). Specifically, the budget proposes to fund the following ZEV categories at the two departments:

Department	Category	2025-26	2026-27	2027-28
Air Resources Board				
	Charter Boats Compliance	20		20
	Clean Cars 4 All & Other Equity Projects			45
	Community-Based Plans, Projects and Support / Sustainable Community Strategies	100	79	100
	Drayage Trucks & Infrastructure	48	37	48
	Emerging Opportunities	47		
	Ports		185	
	CARB Subtotal	215	301	213
Energy Commission				
	Drayage Trucks & Infrastructure	50	49	50
	Clean Trucks, Buses and Off-Road Equipment	89		137
	Fueling Infrastructure Grants	140	80	219
	Equitable At-Home Charging	60	40	80
	Ports		130	
	Emerging Opportunities	46		
	CEC Subtotal	385	299	486
	Total	600	600	699

Under the proposed budget bill language, CARB and CEC have discretion on which specific programs are funded under each of these categories. Each department has their own specific process to allocate these funds—for CARB, it is through the Funding Plan and for CEC, it is through Clean Transportation Program. Both programs include a public proceeding process to develop an annual investment plan, through which department staff can engage with stakeholders, develop a specific allocation plan, and submit to the board or commission for final approval. The following provides a brief summary of each category, which programs the funding has gone towards, and how that is determined:

- **Charter Boats Compliance (CARB).** Funding under this category is aimed at reducing emissions from vessels subject to the Commercial Harbor Craft regulation, by supporting cleaner technology for commercial passenger fishing vessels, excursion and research vessels, as well as public and private ferries, helping reduce diesel particulate matter emissions near port communities. The project/program through which the funding for this category will be administered will be determined through a public process and ultimately described in CARB's annual Funding Plan. Previous budgets have included $60 million for Charter Boats Compliance, which was awarded through the Sustainable Heavy-Duty Initiatives for Future Technology (SHIFT) program (formerly known as the Advanced Technology Demonstration and Pilots). Approximately $52 million dollars has been encumbered in grant agreements and the remaining funds have been committed to projects, pending grant execution.

- **Clean Cars 4 All & Other Equity Projects (CARB).** This category of funding is aimed to help increase low-income individuals' and households' access to clean transportation options. Specific program allocations are determined by CARB's Funding Plan process. Funding has gone towards the following projects and programs:

  - <u>Regional Clean Cars 4 All</u> (local air district programs): Provides incentives to help lower income consumers living in priority populations to replace their old higher polluting vehicles with newer and cleaner transportation. Currently available in the state's 5 largest air districts. $107 million remains as of January 31, 2025.
  - <u>Driving Clean Assistance Program</u> (includes Statewide Clean Cars 4 All, the Financing Assistance Program, and Zero Emission Assurance Project): Offers Statewide Clean Cars 4 All in all areas outside of the 5 implementing air districts and the Financing Assistance Program provides access to low interest rate loans and incentives statewide for consumers that don't have a vehicle to scrap. The Zero Emission Assurance Project helps lower-income Californians reduce the risk of buying a used zero-emission vehicle by providing a rebate or vehicle service contract for the replacement battery or fuel cell component. The Zero Emission Assurance Project is expected to launch as a part of the Driving Clean Assistance Program later this year. $208 million ($105 million for Statewide Clean Cars 4 All, $93 million for Financing Assistance, and $10 million for the Zero-Emission Assurance Project) remains as of January 31, 2025.
  - <u>California E-Bike Incentive Project</u>: Provides voucher incentives to low-income California residents for the purchase of electric bikes (e bikes) including cargo e bikes and adaptive e bikes. $21 million remains, as of January 31, 2025.
  - <u>Access Clean California Project</u>: Helps streamline access to California Climate Investments' consumer-facing, equity-focused clean transportation and clean energy incentive programs for low-income and disadvantaged communities.

- **Community-Based Plans, Projects and Support / Sustainable Community Strategies (CARB).** Funding generally supports projects that increase access to zero-emission mobility in low-income communities and reduce vehicle miles traveled. Specifically, funding has been allocated towards the following projects/programs:

  - <u>Clean Mobility Options Project</u>: Provides funding for community-driven mobility projects that include electric car sharing, carpooling, regular bicycle and electric bicycle sharing, scooter sharing, vanpools, innovative transit services, fixed route transit, and other clean mobility options that best suit their communities' needs. Previously, CARB allocated $10 million to this program.

  - Clean Mobility in Schools Project: Funds a variety of clean transportation projects in and around school communities. This includes funding for zero-emission vehicles, charging infrastructure, active and alternative modes of transportation, fleet and energy transition plans, education, curriculum, workforce training, and more. Previously, CARB allocated $16.7 million to this program.
  - Sustainable Transportation Equity Project: Funds a variety of community-driven clean transportation projects, such as public transit, shared mobility services, active transportation infrastructure, land use planning and housing policy, workforce development, and clean transportation planning and education. Previously, CARB allocated $16.7 million to this program.
  - Planning and Capacity Building Grants: Funds a variety of community-led planning and capacity building projects that include clean mobility transportation planning, community transportation needs assessments, community capacity building, outreach, workforce training and development, ongoing technical assistance, and other critical community-led clean mobility investment needs. Previously, CARB allocated $16.7 million to this program.

- **Drayage Trucks & Infrastructure (CARB).** This funding supports incentives to purchase zero-emission drayage trucks, and is administered through the Clean Truck and Bus Voucher Incentive Project (HVIP) as a dedicated set aside. CARB has received a total of $312 million for this category from the ZEV Package to date. All previous appropriations have been fully encumbered and the HVIP drayage truck set-aside is now closed to new applications. Fleets have placed purchase orders for the new zero-emission drayage trucks and CARB expects vehicle deliveries will occur within 12-18 months due to build times and truck availability.

- **Emerging Opportunities (CARB).** Funding under this category supports the advancement of zero-emission technologies in sectors where zero-emission options are not yet widely available such as maritime, aviation, locomotives, and off-road applications. The project/program through which the funding for this category will be funded will be determined through a public process and described in CARB's annual Funding Plan. CARB has received $53 million for this category from the ZEV Package to date. CARB and CEC held a joint solicitation for this funding in late 2023 into early 2024, under Advanced Technology Demonstration and Pilot Projects.

- **Ports (CARB and CEC).** This category of funding is intended to support ports in transitioning its vehicles and equipment to zero-emission, through funding port vehicles and vessels, forklifts, goods movement vehicles and equipment, and other mobile sources of pollution at ports. CARB and CEC will work in collaboration through the public process to develop the details on how this funding is implemented, including project prioritization, but anticipate it being through established programs to provide vehicle and equipment and infrastructure incentives. This could potentially be a joint solicitation.

- **Drayage Trucks & Infrastructure (CEC).** Funding under this category has been allocated through two mechanisms: (1) a grant solicitation to support medium- and heavy-duty (MDHD) ZEV infrastructure at ports and (2) EnergIIZE, a third party administered block grant that provides incentives for ZEV infrastructure for MDHD vehicles. According to the CEC, the funding proposed for 2025-26, 2026-27, and 2027-28 is intended to support deployment of charging and hydrogen refueling infrastructure for zero-emission drayage trucks at ports, and goods movement corridors related to ports.

- **Clean Trucks, Buses and Off-Road Equipment (CEC).** This category of funding supports the deployment of charging and hydrogen refueling infrastructure for clean trucks, buses, and off-road equipment, including, but not limited to, construction and agricultural vehicles and equipment. This is a broad category that allows for infrastructure funding to support smaller trucks (i.e., delivery trucks) up through larger heavy-duty trucks and also buses (transit & schools). CEC has allocated this funding through various grant solicitations and third-party administered block grants.

- **Fueling Infrastructure Grants (CEC).** This category supports the deployment of charging infrastructure for light-duty electric vehicles. Prior funding under this category has been allocated through various grant solicitations and third-party administered block grants, such as Fast and Available Charging for All Californians and Charging Infrastructure for Government Fleets.

- **Equitable At-Home Charging (CEC).** Funding under this category supports the deployment of equitable at-home charging infrastructure for those living in multi-unit dwellings such as apartments and/or homes with limited access or means to support home charging. Prior funding under this category has been allocated through the Reliable, Equitable, and Accessible Charging for Multi-family Housing grant solicitation as well as the Communities in Charge block grant.

- **Emerging Opportunities (CEC).** Funding under this category support the zero-emission aviation, locomotives, marine vehicles, and vehicle-grid integration efforts. Prior funding under this category has been allocated through the Responsive, Easy Charging Products with Dynamic Signals grant solicitation as well as Advanced Technology Demonstration and Pilot Projects program in partnership with CARB.

Although the Legislature has previously provided CARB and CEC significant authority to allocate funds under these categories, it can directly allocate funds to specific programs. In particular, several stakeholders have requested additional funding be provided to local air pollution districts participating in Clean Cars 4 All, an incentive program for low-income individuals; the HVIP program, which provides incentives for medium- and heavy-duty vehicles; zero-emission school buses; Funding Agricultural Replacement Measures for Emission Reductions (FARMER) Program; among many others. The Legislature may want to consider to what extent it would like to prioritize specific ZEV programs by providing a direct appropriation, and how it can best direct CARB and CEC in using state funds to meet the needs of the zero-emission transition.

The Legislature may also want to consider the GGRF allocations to ZEV programs in context of a recent legal settlement with Hino Motors, a heavy-duty engine manufacturer. In January 2025, the California Attorney General and CARB announced a $236.5 million settlement with Hino Motors, to address claims that Hino fraudulently obtained low emission vehicle subsidies from the State and allegedly violated California laws including the False Claims Act and Unfair Competition Law. Of the settlement amount, $111.8 million is required to be spent to mitigate harmful emissions of NOx in California. Stakeholders have requested this amount be allocated to HVIP, as it supports the zero emission transition of medium- and heavy-duty vehicles, and thus, mitigates NOx. CARB reports that these settlement funds have not yet been received. However, once the funds are received, the department intends to make a proposal to the Legislature for appropriation through the budget process.

Staff Recommendation. Hold open.

3900 State Air Resources Board

Issue 2: Implementation of Advanced Clean Fleets, Zero-Emission Airport Shuttle, and Zero-Emission Forklift Regulations

Governor's Proposal. The Governor's budget includes two proposals to provide CARB with ongoing resources in order to implement regulations aimed at improving air quality and reducing GHG emissions:

- ***ZEF.*** $3.5 million on an ongoing basis from APCF and 17 positions to support the implementation and enforcement of CARB's recently adopted ZEF regulations.

- ***ACF and ZEAS.*** $5.8 million on an ongoing basis from APCF starting in 2026-27 and the conversion of 32.5 limited-term positions to permanent positions in 2025-26 to implement CARB's recently adopted ACF and ZEAS regulations.

LAO Assessment.

Lack of Federal Waivers Prevents California From Enforcing Most Components of ZEF, ACF, and ZEAS Regulations. Because they represent unique state-level vehicle standards, under federal law, CARB must secure federal waivers to enforce the ZEAS and ZEF regulations, as well as most of the ACF regulation. While CARB secured a waiver for the ZEAS regulation in 2023, it has not done so for its ZEF and ACF regulations. Accordingly, while CARB can enforce the ZEAS regulation and certain portions of the ACF regulation, it does not have authority to enforce most of the ACF regulation or any of the ZEF regulation. Moreover, signals from the new federal administration suggest it is not likely to grant California additional waivers and may even attempt to rescind already-approved waivers. For example, on January 20, 2025, President Trump signed an Executive Order stating that it is the policy of the United States to eliminate the "electric vehicle mandate" and to terminate, "where appropriate, state emissions waivers that function to limit sales of gasoline-powered automobiles." Accordingly, CARB is unlikely to be able to enforce the ZEF regulation or most of the ACF regulation for at least the next four years.

Given Lack of Enforcement Authority, Re-Evaluation of Approach Could Make Sense. Together, the Governor's two proposals would provide nearly 50 positions and over $9 million annually from APCF to implement all three regulations. This proposed use of APCF funds comes with trade-offs, as they could otherwise be used to support a variety of other types of regulations and programs that also would help the state meet its climate goals and air pollution standards. As such, the Legislature will want to give careful consideration to which activities it believes will be most cost-effective at achieving the state's objectives. CARB contends that implementing the ZEF and ACF regulations is an important step in helping the state achieve its climate goals and meet air quality standards. However, absent the authority to enforce the bulk of these regulations, the state will likely need to step back and consider whether to shift efforts and resources towards alternative strategies to achieve GHG and air quality goals. For example, a modified approach could rely more on (1) other regulations or activities that are covered under existing waivers and/or (2) activities that are unlikely to require federal waivers, such as financial incentive programs, programs that assess varied fee levels based on a vehicle's emissions, or indirect source rules. (Indirect source rules are regulations that address air pollution from mobile sources that are indirectly associated with a facility. For example, they could require the operator of a warehouse to offset the emissions from the trucks that use its facility.)

These types of modified approaches likely would come with trade-offs—including related to costs, expected amounts of emission reductions, and impacts on regulated industries—that would be important for the Legislature to weigh prior to deciding how to move forward.

Lack of Information on State Operations and Vacancy Reductions Complicates Legislative Decision-Making. At the same time that CARB is requesting additional positions to implement these new regulations, the administration is in the process of making reductions that could affect other programs and/or regulations aimed at helping the state meet its climate goals and air pollution standards. Specifically, as mentioned above, the Administration currently is in the process of implementing two reductions across nearly all state departments—one aimed at achieving ongoing General Fund state operations savings of up to 7.95 percent beginning in 2024-25 and another aimed at capturing additional savings from permanently eliminating vacant positions regardless of their funding source. As of this writing, CARB has provided minimal details on how these reductions will be implemented across the department. Absent such information, the Legislature has no way to assess how these reductions will affect other existing programs or regulations that might help the state meet its air quality standards and GHG-reduction goals or other key legislative priorities. This complicates the Legislature's efforts to assess whether the proposed new positions are the highest priorities for limited funding, or whether funding might more effectively be used to help maintain support for existing priority programs and regulation implementation.

LAO Comments.

Direct CARB to Report at Budget Hearings on Potential Approaches to Meeting Goals Given Lack of Waivers. In light of the lack of federal waivers for the ZEF and ACF regulations and resulting limitations on the state's regulatory enforcement abilities, we recommend the Legislature direct CARB to provide information at spring budget hearings on the various types of alternative approaches that the state could explore to meet its climate goals and air quality standards, as well as the associated advantages and disadvantages. This would give the Legislature more information about the types of strategies that it could consider for helping the state meet its goals.

Direct CARB to Report at Budget Hearings on Plans for State Operations and Vacancy Reduction Savings. We recommend that the Legislature direct CARB to provide a detailed report at budget hearings on its plans for the state operations and vacancy reduction savings, including identifying the specific personnel, contracts, and programs that will be affected. We further recommend that the Legislature direct CARB to provide information on any anticipated programmatic impacts of the proposed reductions. Such information is key to enabling the Legislature to better assess (1) how the changes may impact the state's ability to meet its GHG reduction goals and air pollution standards, (2) whether the changes are consistent with legislative priorities, and (3) how to prioritize the Governor's new proposed position and funding augmentations against a broader context of department-wide resources. (Our recent report, *The 2025-26 Budget: State Departments' Operational Efficiencies [Control Sections 4.05 and 4.12]*, provides a framework with some questions the Legislature could ask the Administration regarding the impacts of these reductions.)

Direct Implementation Resources Toward Priority Activities. We recommend the Legislature incorporate information that CARB provides at budget hearings—including on alternative options for meeting the state's air pollution standards and GHG emission reduction targets, as well as planned reductions associated with state operations and vacant positions—into its decisions regarding whether to fund the proposed positions to support the ZEF, ACF, and ZEAS regulations. The Legislature could then use this information to more fully evaluate how any additional funding and positions could be used to achieve state goals most cost-effectively.

To the extent the Administration is not able to provide adequate information to inform legislative decision-making within the time frame of the spring budget hearings, the Legislature could consider rejecting the proposals without prejudice and directing the Administration to provide further information prior to requesting ongoing funding at a later date.

Staff Recommendation. Hold open.

Issue 3: Expanded Resources for Carbon Capture, Removal, Utilization, and Storage Program (SB 905)

Governor's Proposal. The Governor's Budget includes $2.2 million in 2025-26 and $4.3 million ongoing beginning in 2026-27 from the Cost of Implementation Account (COIA) for 18 positions to implement SB 905 (Caballero and Skinner), Chapter 359, Statutes of 2022. SB 905 requires that CARB establish a Carbon Capture, Removal, Utilization, and Storage Program (Program) to evaluate carbon capture, utilization, or storage (CCUS) technologies and carbon dioxide removal (CDR) technologies and facilitate the capture and sequestration of carbon dioxide from those technologies.

Background. The 2023 budget provided $3.6 million annually for three years, with $1.9 million for nine limited-term positions and $1.7 million for contract funds. Currently, six of the nine limited-term positions are vacant, and CARB has been unable to successfully fill these vacancies with subject matter experts despite repeated recruitments. According to the department, this is due to the limited-term nature of those existing authorized positions. CARB encountered significant delays in program implementation primarily due to the limited number of positions and the inability to recruit qualified staff based on the limited term tenure of positions. Although contract funding was authorized, procurement for IT services has been delayed due to a lack of qualified staff to design system requirements and manage contracts. In addition, CARB has not met several statutory deadlines to adopt regulations and protocols for CCUS and CDR due to the limited staffing and resources dedicated to SB 905 implementation.

The department proposes staffing and budget levels similar to what was originally requested in 2023. This includes 18 positions to complete initial regulatory work, such as conducting CCUS/CDR technology reviews, updating CCS protocols for technologies/project types, developing regulations for financial responsibility and permit portal, establishing a centralized public project database, and conducting program/project reporting for reports due to the Legislature.

Staff Comments. CARB has encountered severe challenges in filling positions to implement SB 905 in the last two years. As a result, the Carbon Capture, Removal, Utilization, and Storage Program development has been hindered and statutory deadlines have not been met. There may be several reasons why the department has struggled to fill these positions. According to CARB, the primary reason is because these positions are limited-term. However, the difficulty to recruit and retain staff can be due to other issues as well, such as a limited pool of candidates with the required skills and expertise. Furthermore, due to the limited information available about the vacancy and state operations reductions at this time, it is unclear how Control Sections 4.12 and 4.05 are impacting SB 905 implementation. For example, without further information, it is difficult to assess whether these control sections further hindered CARB from hiring these positions and moving forward with any operational expenses. Given the department's lack of success in filling these positions the last two years, the Legislature may want to request from CARB, in addition to requesting for permanent positions, how it plans to prioritize this effort, improve its recruitment and retention strategies, fill vacancies expeditiously, and meet the deadlines included in statute (or if passed, as soon as possible).

The Legislature may also want to request additional information on how CARB plans to implement community protections included in SB 905. Health and Safety Code 39741.1 requires CARB to establish a Carbon Capture, Removal, Utilization, and Storage Program that, among other things, ensures all projects include certain community protections, such as strategies to minimize copollutant emissions, monitoring criteria pollutants and toxic air contaminants, and more. According to CARB, the department will embed such community protection requirements in the development of the CCUS program and all related rulemaking efforts through community engagement. CARB reports that specific timelines for program development can only be finalized once final resources are in place. However, stakeholders have voiced concern with the lack of a committed timeline to implement the rulemaking, particularly with respect to the community protections outlined in HSC 39741.1(a)(3). The Legislature may want to request from CARB how the department plans on incorporating these community protections in its rulemaking and how it will be prioritized in the rulemaking process.

Staff Recommendation. Hold open.

Issue 4: E15 Fuel Specification

Governor's Proposal. The Governor's budget includes $2.3 million ongoing from the Air Pollution Control Fund for ten permanent positions to complete the regulatory process to authorize the use of motor vehicle fuels with up to 15 percent ethanol blending (E15) and conduct ongoing program implementation enabling the use of E15 fuels in California.

Background. According to the LAO:

Current Regulations in California Allow for 10 Percent Ethanol Blending in Gasoline. California statute provides authority for CARB to issue regulations for motor vehicle fuel specifications, among other areas. Under this authority, CARB has established regulations that authorize the use of up to 10 percent ethanol in gasoline (a blend known as E10). CARB reports that virtually all gasoline currently sold in California is E10.

Since U.S. EPA Waiver Issued, Other States Have Approved Use of E15. Starting in 2010, U.S. EPA has issued various waivers for the adoption of up to 15 percent ethanol in gasoline (known as E15) for 2001 and newer conventional vehicles. (The use of E15 is not authorized for older vehicles, motorcycles, lawnmowers and other types of off-road equipment, delivery trucks, or other types of heavy-duty vehicles.) Since the adoption of those waivers, all other states besides California have authorized the sale of E15. However, according to the U.S. Department of Energy, E15 only is available at roughly 3,000 gas stations across 31 states (roughly 2 percent of gas stations that sell fuel to the public), and E10 continues to be the standard blend nationwide.

Statute Requires Certain Steps Prior to Establishment of Regulations Governing Motor Fuel Specifications. Existing statute requires CARB to undertake specific actions prior to establishing regulations governing motor fuel specifications. For example, CARB must conduct certain analyses, including an evaluation of the environmental impacts of the proposed policy change known as a "multimedia evaluation." CARB reports that a multimedia evaluation includes three main steps (referred to as tiers) that generally involve the following activities: (1) Tier I: summarizing existing research and identifying knowledge gaps, (2) Tier II: conducting experiments to fill the identified knowledge gaps, and (3) Tier III: preparing a final report summarizing the existing and new research and providing findings and conclusions. According to CARB, completing a multimedia evaluation typically takes two to five years.

Statute further requires that the multimedia evaluation be approved by the California Environmental Policy Council, which is an entity composed of the heads of seven state environmental protection-related agencies.

CARB Is Undertaking a Process to Consider Allowing E15. CARB indicates that it initiated a multimedia evaluation for E15 in 2018 and finalized the Tier I analysis in 2020. The department has not yet completed Tier II or Tier III but anticipates finishing these remaining steps by summer 2025. Once complete, CARB will use the multimedia evaluation process to determine whether to move forward with developing a regulation to authorize the use of E15 in California.

Governor Issued Directive to CARB Related to E15. In October 2024, Governor Newsom sent a letter to CARB directing the department to expedite its actions related to E15. In that letter, the Governor also indicated that the Administration "welcomes a partnership" with the Legislature in 2025 to consider necessary statutory changes and funding that would further expedite CARB's consideration of authorizing the use of E15 in California.

LAO Assessment.

Potential Trade-Offs Associated With Shift to E15. Recent reports have highlighted various potential trade-offs associated with E15. For example, in August 2024, the California Energy Commission issued a *Transportation Fuels Assessment* that found that E15 likely would reduce gasoline prices and may present fewer environmental harms than E10. However, the analysis also noted that shifting to E15 could result in a loss of fuel economy of roughly 1 percent, that fueling equipment and some vehicles may lack the capability of operating with E15, and that more analysis is necessary to understand the pollution impacts.

Premature to Provide Ongoing Funding for Program Given Uncertain Outcome of Regulatory Process. To the extent that expediting the development of E15 regulations is a priority for the Legislature, providing resources to support that activity in the near term is reasonable. However, authorizing ongoing funding for CARB positions to support the implementation of the policy now—as the Governor is proposing—would be premature at this time for two reasons. First, whether CARB ultimately will pursue and adopt E15 regulations is uncertain, given that the multimedia evaluation has not yet been completed. Notably, while CARB indicates that thus far its analyses have not identified major environmental or public health concerns associated with E15, it cannot forecast the ultimate outcome of any regulatory process or board action. Second, the program's staffing needs are subject to change as the policy moves from regulation development to implementation and enforcement. Initially, CARB proposes to use the requested staff to complete development of the E15 regulation to bring to the board for consideration by summer 2026. (The department indicates the process likely would take until late 2027 absent the proposed additional resources.) After the regulation has been adopted, CARB indicates that it would use the additional staff for associated implementation and enforcement activities. However, the staff expertise required for regulation development likely would differ from that for implementation and enforcement, potentially resulting in differences in both the number of personnel needed as well as their respective duties.

Modifying Proposal to Provide Limited-Term Funding Would Better Align With Known Workload, but Would Come With Trade-Offs. Because future E15-related workload still is uncertain, a stronger justification exists for modifying the proposal to provide limited-term resources to complete the regulatory process. The Legislature could then revisit the need for and level of ongoing positions and funding once more is known about future implementation and enforcement needs. However, such an approach has associated trade-offs.

The administration has indicated that activities which are funded on a limited-term basis present some challenges. For example, attracting and retaining qualified staff to complete activities supported with limited-term funding can be more difficult since associated positions generally provide less stability for employees. This challenge can lead the Administration to request ongoing funding and positions even when workload is short term in nature or subject to substantial uncertainty—as we believe is the case with the E15 regulation development and future workload. Yet a key drawback to this approach is that it obligates the state to hire and maintain permanent staff—and support their associated future pension benefits—even when they may no longer be needed or justified after the short-term workload they were brought on to complete has ended. In the case of the E15 proposal, despite the trade-offs involved, we find providing limited-term funding to be more appropriate than ongoing support in light of (1) the uncertainty regarding whether the policy will be implemented and (2) if it is ultimately implemented, the changing resource needs as the program moves from regulatory development to implementation.

LAO Recommendation.

Modify Proposal to Provide Proposed Funding for Positions on a Two-Year, Limited-Term Basis. We recommend providing the requested funding for positions on a two-year, limited-term basis rather than on an ongoing basis. To the extent CARB's multimedia evaluation ultimately supports the development of an E15 regulation, this modified action would provide funding for the development of such a regulation. Should the regulatory process culminate in the adoption of an E15 regulation, CARB could request the requisite amount of ongoing funding for the appropriate number and classifications of permanent positions to implement and enforce the regulation as part of a future budget request. The department will be in a better position to assess the level of this ongoing workload once the regulatory process is complete.

Staff Recommendation. Hold open.

Issue 5: Regulatory Fee Authority Trailer Bill Language

Governor's Proposal. The Governor proposes trailer bill language that would provide CARB the authority to impose fees on entities regulated by the board, for the purpose of recovering reasonable costs incurred in regulating that entity. Under this proposal, CARB would be able to collect fees for a range of their responsibilities, including, but not limited to, developing new and amending existing airborne toxic control measures as well as emission reduction measures for on-road and nonroad sources; implementing and enforcing airborne toxic control measure; and identifying, quantifying, inventorying, monitoring, evaluating, and reducing emissions of toxic pollutants in communities across the state, among other activities.

Background. According to the LAO:

State Levies Fees to Fund Certain Costs. The state assesses a variety of fees and charges to help fund its operations. Typically, the state levies fees to pay for the costs of specific regulatory activities or for providing specified government services or products. Under the State Constitution, fees must be set at a reasonable level, generally reflecting the costs of the services or benefits provided. The State Constitution allows the Legislature to increase fees to cover the costs of specific state activities with a majority vote of each house of the Legislature. (This is in contrast to taxes, from which revenues can be used for a broader range of activities and which require a two-thirds vote of each house of the Legislature.)

Legislature Has Longstanding Practice of Granting Departments Authority to Assess Specific Fees. In many cases, the Legislature has enacted statutes that delegate some of its authority to set and/or modify fees to state departments. When the Legislature delegates this authority, it often provides direction in statute regarding how such fees are to be assessed. For example, the Legislature may specify the entities and activities that will be subject to the fees, the amounts of the fees to be collected, the mechanism for increasing the fees (such as to adjust for inflation), the authorized uses of the fee proceeds, and the duration of the fee authority.

Legislature Has Provided CARB Authority to Collect Certain Fees. The Legislature has authorized CARB to collect various specified fees and charges. For example, under existing statute, CARB has explicit authority to assess fees related to a range of specific regulatory programs, such as to certify and audit motor vehicles and motor vehicle engines and to regulate non-vehicular sources of emissions. CARB uses the revenues it collects through this existing fee authority—along with funding from penalties, taxes, and other sources—to carry out its functions. However, existing statute does not include a broad authorization for CARB to assess fees to support any and all climate and air quality-related programs; generally, the department's existing fee authority is for activities or programs specifically enumerated in law.

Legislature Has Provided CARB Particularly Broad Authority to Establish Regulations. As discussed later in this brief, the Legislature has authorized CARB to establish regulations related to meeting the state's climate goals and air pollution standards. In general, the authority that the Legislature has granted to CARB is broader than what is typical; for most other departments, the scope of the authorized regulatory power is more limited and specific. CARB has used its broad authority to promulgate numerous regulations, such as those that require entities to shift to ZEVs (including the ZEF, ACF, and ZEAS regulations discussed elsewhere in this report) and require reductions in the carbon intensity of transportation fuels (known as the Low Carbon Fuel Standard program).

LAO Assessment.

New Proposed Authority for CARB to Assess Fees Appears Quite Broad. The proposed budget trailer legislation could have the effect of greatly expanding CARB's authority to assess fees to fund its activities related to air pollution and GHG reductions. In contrast to its current fee-setting authority, which is limited to specific regulatory programs, this proposal would provide broad authority for the department to assess fees related to the activities it conducts pursuant to Division 26 of the Health and Safety Code. The exact scope of the fees or other charges that could be assessed under this proposed authority is not entirely clear. However, the language appears to be broad enough that it could potentially be interpreted to allow CARB to assess charges that go beyond the simple administration and enforcement of regulations. For example, should the proposed budget trailer legislation receive a two-thirds vote of both houses of the Legislature, it potentially could be interpreted to allow CARB to assess fees on certain entities (such as high polluters) and use the revenue to make payments to other entities (such as low polluters). As discussed above, CARB already has broad authority to promulgate regulations related to air pollution and GHG emission reductions. When taken together with the proposed expansion of fee authority, CARB would have a wide-ranging ability to craft new policies and raise the funds to support them without additional legislative action, so long as the department believes the policies would help the state achieve its air pollution standards and climate goals.

Breadth of Requested Fee Authority Does Not Appear Justified. We have two significant concerns with the Administration's proposal. First, we do not believe that CARB has provided a compelling rationale for why it needs such broad fee authority to pursue the state's climate and air quality goals. CARB argues that the scale of actions needed to address California's air pollution and climate challenges require more funding and that the proposed legislation would enable it to raise those funds. While some additional funding may ultimately be needed for CARB to implement its programs and regulations, in our assessment, the department has not made an adequate case for why the proposed broad delegation of authority is warranted and why a more narrowly crafted authorization to increase fees for specific activities would not suffice. For example, the department could identify a specific set of problems it wants to address and actions it wants to undertake and request authority from the Legislature to raise fees that are targeted around supporting those activities. CARB has not offered a persuasive explanation for why the Legislature should depart from this traditional approach to setting fee policy. Second, CARB has not provided adequate information over how it would use the proposed new authority. CARB is effectively requesting that the Legislature grant it authority to raise additional fees without providing a clear understanding of what those fees would include, which entities would pay them, or the amount that would be charged. This lack of information makes it impossible for the Legislature to assess the costs or benefits of potential fees CARB might impose, thereby also precluding it from comparing and balancing those two key considerations before approving this proposal.

Proposal Requests Legislature Delegate Core Responsibility for Setting Fees and Charges. Given the lack of detail around why CARB needs the expansive proposed authority to accomplish the state's goals or how the department would use it, we think this proposal requests that the Legislature delegate too much of its constitutional fee-setting responsibility to the administration. The California Constitution entrusts the Legislature with the fundamental "power of the purse," which includes the responsibility to determine the fees and charges assessed on Californians. In general, we believe the Legislature should be cautious in delegating this core responsibility, particularly without specific parameters and a compelling justification. Any new fees CARB might assess under the proposed new authority would be subject to a public rulemaking process and approval by its board. However, in our view, such processes are not an adequate substitute for decisions made by the Legislature, which is the state's elected body charged with determining overall state fee and expenditure policies. Also, while the annual budget process would give the Legislature an opportunity to appropriate the money raised by the proposed new fees, that also would not serve as an adequate substitute for legislative approval of the specific fees—by the time the department requests that the Legislature appropriate the revenue, CARB could already have set and levied the fees.

LAO Recommendation.

Reject Proposed Budget Trailer Bill Language. We recommend the Legislature reject the proposed budget trailer legislation as the breadth of the requested fee authority is not justified and would delegate too much legislative control and authority to the administration. To the extent CARB requires additional authority to raise revenues to implement specific programs and regulations, the department can return at a future date with a more narrowly crafted proposal for the Legislature to consider. Such a proposal should include a robust justification for the specific fees the department proposes to levy, as well as key details on the proposed fees such as: (1) the specific activities that would be subject to the fees, (2) the proposed fee amounts, (3) the entities that would be subject to paying the fees, (4) the level of expected fee revenues, and (5) how the fee revenues would be used. This type of detailed information is critical to enable the Legislature to adequately weigh the anticipated costs and benefits associated with providing CARB with additional fee-raising authority.

Staff Comments. CARB is primarily funded out of various special funds, including the Air Pollution Control Fund (APCF) and the Motor Vehicle Account (MVA). However, both APCF and MVA face funding challenges. For example, the MVA continues to face operational shortfalls as expenditures outpace revenues. In the Governor's Budget, absent any action, the MVA is projected to be insolvent with a fund balance of -$148 million in 2025-26. APCF has also historically faced a similar structural deficit—meaning expenditures outpacing revenues. But in recent years, the APCF have received penalty funds, typically from manufacturers or distributers of motor vehicles for violations of regulations, which has improved the fund condition. It is important to note, however, that these funds typically have specific requirements. For instance, CARB recently entered into a joint settlement with Hino Motors, and of the settlement money, $111.8 million is required to be spent to mitigate harmful emissions of NOx in the state. In the long-term, it is difficult to budget with settlement monies, since the timing and amount of the penalties are unknown—and ideally, penalty revenues will decrease over time as fewer companies are found violating regulations.

Given the challenges that these special funds face, the Governor's Budget includes trailer bill language that would allow CARB to impose fees to recover costs of regulation. These fees would be deposited to the Certification and Compliance Fund (CCF). This would allow the department to (1) shift costs to regulated entities and embody more of a "polluter pays" model; (2) potentially reduce expenditures out of the MVA and APCF in the long-term; and (3) create a more sustainable funding solution for its regulatory programs.

Under this proposal, CARB anticipates all fees will still be subject to the annual budget process—meaning, the department will report back with any new proposals to generate fee revenue for specific programs. This will be in addition to the board's own rulemaking process. If the trailer bill language is approved, CARB anticipates using the proposed authority to collect fees for the Transport Regulation Unit (TRU) and Commercial Harbor Craft (CHC) regulations. Both regulatory programs have been previously approved in the 2022 and 2023 budgets, and presumed to be funded through the collection of fees or payments by regulated owners and operators deposited in the CCF. However, a recent court ruling prohibited CARB from collecting fees included in the TRU Regulation. As a result, TRU programmatic work is currently being funded by APCF.

As the Legislature assesses the merits and tradeoffs of this proposal, it has options to amend aspects of the language to best meet specific policy goals. For example, the Legislature may want to consider modifying the scope of the proposal, by authorizing fee authority for specific programs, setting caps for fee levels, including a sunset date, among other changes. The Legislature may want to consider the level of oversight and involvement through the budget and/or policy process to institute in providing such fee authority to the department; the potential impacts of fees on consumers and regulated entities; as well as funding and programmatic alternatives to this proposal.

Staff Recommendation. Hold open.

ITEMS FOR PUBLIC COMMENT

3900 STATE AIR RESOURCES BOARD

Issue 6: Cap and Trade Administrative Services (WCI, Inc.)

Governor's Proposal. The Governor's budget includes $1 million in 2025-26 and $2 million ongoing beginning in 2026-27 from the Cost of Implementation Account for the California Air Resources Board (CARB)'s increased contract services costs. Specifically, CARB is facing a cost increase for contract services from the Western Climate Initiative (WCI, Inc.) to help support the Cap-and-Trade program.

Background. WCI, Inc. is a non-profit corporation that provides administrative services, such as contracted financial and market monitoring services, as well as technical systems to the participating jurisdictions—which currently are California, Washington, and Quebec—to help implement greenhouse gas emissions trading programs. WCI, Inc. is solely funded by fees paid by member jurisdictions, assessed based on the costs to provide administrative services, develop, maintain, and operate technical systems, and for staff and operations.

Currently, CARB's budget includes $2 million ongoing for contract services from WCI, Inc. In 2020-21, CARB received one-time funding of $21.1 million from 2021-22 through 2025-26 to fund the development of a new auction platform and market registry systems while concurrently maintaining the legacy systems. The department reports the development is largely complete, with the new auction platform in use and the new market registry anticipated for release in late 2025. As the one-time funding ends this budget year, CARB requests ongoing funding (an additional $2 million, so $4 million total) for increased in-house staff to maintain and improve administrative services provided by WCI, Inc. Specifically, this ongoing funding will allow WCI, Inc. to shift from contracted IT services to in-house technical staff to maintain and operate the newly built technical systems.

Staff Recommendation. Hold open.

Issue 7: Conversion of Limited-Term to Permanent Positions for Incentives Portfolio

Governor's Proposal. The budget includes position authority for CARB to convert 25 positions from limited-term to permanent. These positions are intended to support the department's incentives programs.

Background. CARB implements several incentive programs that provides funding for zero-emission vehicles and equipment in a wide range of sectors and environments to ultimately reduce GHG emissions and improve air quality. These incentive programs include Clean Transportation Initiatives, Community Air Protection (CAP), and Carl Moyer programs.

In recent years, CARB has received significant amounts of funding for these incentive programs from the General Fund, Greenhouse Gas Reduction Fund, settlement funds, and other special funds. In particular, programs grew rapidly in the 2022 budget due to the surplus at the time. As these programs received an influx of funding, CARB administratively created 25 limited-term positions to support these programs as they expanded in a short period of time. CARB is now requesting these positions be made permanent because supporting and implementing these programs have become ongoing workload—lasting longer than the two years that limited-term positions are restricted to.

This request is specifically for position authority, as these positions will be funded out of the 5 percent administrative set asides from funding for incentive programs.

Staff Recommendation. Hold open.

Issue 8: Mobile Source Laboratory Equipment Support and Maintenance

Governor's Proposal. The budget includes $8 million ongoing from the Certification and Compliance Fund for CARB to support and maintain its mobile source laboratory, which is key to investigating manufacturers violating emissions standards. Of this amount, $6.5 million will support cost increases in maintenance, service, and training contracts, equipment procurements, and laboratory supplies. The remaining $1.5 million will fund the replacement of laboratory equipment beyond its useful life.

In addition, the Administration proposes trailer bill language to specify deficiency fines and fees are a part of the certification, audit, and compliance programs regulating motor vehicle manufacturers.

Background. CARB's mobile source laboratory is equipped with more than 1,000 individual pieces of equipment to test almost any size engine or vehicle on any fuel used in California – both at higher emission rates characteristic of older vehicles and the lowest emission rates characteristic of current and future emission standards. These systems must be regularly maintained, repaired when broken, supported with calibration gases and other consumables, operated with compliant and functional software, and replaced when obsolete. The department's budget currently includes $4 million ongoing for equipment maintenance contracts, equipment calibrations, lab supplies, and consumables for heavy-duty testing. However, CARB requests additional funding to maintain, repair, and replace equipment, to supply the laboratory with consumable materials, including calibration gases, and to subscribe to the software upon which the laboratory runs.

The department proposes to fund these ongoing needs from fines and fees from manufacturers. Specifically, CARB has an existing on-board diagnostic (OBD) program which notifies the vehicle/engine operator when the engine is not operating properly and needs to be repaired. A "check engine" light is the most well-known portion of this system. The OBD program is incredibly complex and sometimes manufacturers disclose issues in their system which cannot be fixed before vehicles are offered for sale. In these cases, CARB has offered deficiency fines on a limited basis, to settle non-compliance through an enforcement process, and payable to the Air Pollution Control Fund (APCF).

CARB anticipates about $5 to $10 million will be generated from OBD deficiency fines. These funds are currently deposited into the APCF, but the department proposes trailer bill language that specifies these deficiency fines should be considered compliance fees. According to CARB, this would allow the department to begin deposit these funds to Certification and Compliance Fund (CCF) instead. Because this would require an update to its regulations, this budget request proposes to additionally transfer funds from APCF to CCF for two years, until the CCF is sufficiently robust to support the allocation.

Staff Recommendation. Hold open.

Issue 9: Right Sizing of IT Procurement, Contracting, and Business Technology Management

Governor's Proposal. The budget includes $439,000 in 2025-26 and $840,000 ongoing beginning in 2026-27 from various funds for information technology (IT) procurement, contracting, business technology management, and contact management units.

Background. Under CARB's Office of Information Services, the Information Technology Procurement, Contracting, and Reporting Section (ITPCRS) supports the department by managing IT contracts for CARB's hardware/software purchasing, mobile devices, infrastructure purchasing, hardware/software support, network management, consulting and implementation services, laboratory equipment, online subscriptions, data services, and University and interagency agreements. However, as the department needs have grown, ITPCRS have been unable to meet that increased demand.

For example, ITPCRS received over 500 IT requisition requests for CARB and more than 115 IT requisitions for CalEPA in 2022-23. In 2023-24, ITPCRS received over 900 IT requisition requests for CARB and over 85 IT requisitions for CalEPA. On August 1, 2024, CARB transferred delegated purchasing authority to CalEPA for CalEPA's requisitions at the direction of the Department of General Services. The current contract load is estimated at 230 contracts, with an estimated value of $400 million. This results in a ratio of 153 procurements and 58 contracts per 1 support staff. This workload demand means procurements and contracts are not executed timely, not properly managed, and not completed by the end of the appropriation's encumbrance period, and this results in costly project delays. It is also causing issues in quality and compliance with State policy and management of Telecom services. In both 2022-23 and 2023-24, ITPCRS was unable to complete more than 10 percent of the contracting and procurement requests. Additionally, over 40 percent of completed requests were delivered or provided after the required need-by date.

Moving forward, the department estimates the number of assets, acquisitions, and contracts will grow expeditiously due to (1) continued organizational growth, (2) oversight directives that classify previous non-IT goods and services as IT goods and services, and (3) ongoing legislative and regulatory actions resulting in complex projects or contracts. CARB requests two Information Technology Specialist II for IT Project Contracting Support and two Information Technology Specialist I for IT Procurement and Contracting to meet such ongoing need.

Staff Recommendation. Hold open.