

**Assembly Bill No. 33**

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Passed the Assembly September 2, 2021

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*Chief Clerk of the Assembly*

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Passed the Senate September 1, 2021

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2021, at \_\_\_\_\_ o'clock \_\_\_\_M.

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*Private Secretary of the Governor*

## CHAPTER \_\_\_\_\_

An act to amend Sections 25410.6, 25411, 25412.5, 25413, 25414, 25415, and 25416 of the Public Resources Code, relating to energy, and making an appropriation therefor.

## LEGISLATIVE COUNSEL'S DIGEST

AB 33, Ting. Energy Conservation Assistance Act of 1979: energy storage systems and electric vehicle charging infrastructure: Native American tribes.

The Warren-Alquist State Energy Resources Conservation and Development Act establishes the State Energy Resources Conservation and Development Commission (Energy Commission). Existing law requires the Energy Commission, working with the State Air Resources Board and the Public Utilities Commission, to prepare and biennially update a statewide assessment of the electric vehicle charging infrastructure needed to support the levels of electric vehicle adoption required for the state to meet its goals of putting at least 5,000,000 zero-emission vehicles on California roads by 2030 and of reducing emissions of greenhouse gases to 40% below 1990 levels by 2030. The Energy Conservation Assistance Act of 1979 authorizes a school, hospital, public care institution, or unit of local government to submit an application to the Energy Commission for an allocation for the purpose of financing all or a portion of the costs incurred in implementing a project, which includes an energy audit, energy conservation and operating procedure, or energy conservation measure in an existing or planned building or facility, an energy conservation project, or a technical assistance program. Existing law requires the Energy Commission to approve only those applications for projects that will recover costs through savings in the cost of energy to the eligible institution during the repayment period of the allocation. Existing law creates the State Energy Conservation Assistance Account, which is continuously appropriated to the Energy Commission for purposes of the act. Under existing law, the Energy Conservation Assistance Act of 1979 is repealed on January 1, 2028, as specified.

This bill would require the Energy Commission, in administering the account, to provide grants and loans to local governments and public institutions to maximize energy use savings, expand installation of energy storage systems, and expand the availability of electric vehicle charging infrastructure, including technical assistance, demonstrations, and identification and implementation of cost-effective energy efficiency, energy storage, and electric vehicle charging infrastructure measures and programs in existing and planned buildings or facilities. The bill would authorize an eligible institution to propose to bundle multiple projects where the determination of whether the costs of the projects will be recovered through savings during the repayment period of the allocation would be determined by the savings of those multiple projects bundled together. The bill would make changes to terminology used in the Energy Conservation Assistance Act of 1979. By expanding the purposes for which moneys in the account can be expended, this bill would make an appropriation.

The bill would include Native American tribes as entities eligible for financial assistance under the Energy Conservation Assistance Act of 1979, thereby expanding the purposes for which moneys in the continuously appropriated account can be used and making an appropriation. The bill would establish a subaccount within the account to track the award and repayment of loans to tribes. The bill would continuously appropriate the moneys in the subaccount to the commission for loans only to tribes, thereby making an appropriation. The bill would authorize the Energy Commission to transfer moneys from the account to the subaccount and from the subaccount to the account.

Appropriation: yes.

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

SECTION 1. Section 25410.6 of the Public Resources Code is amended to read:

25410.6. (a) The commission shall administer the State Energy Conservation Assistance Account to provide grants and loans to local governments and public institutions to maximize energy use savings, expand installation of energy storage systems, and expand the availability of electric vehicle charging infrastructure, including, but not limited to, technical assistance, demonstrations,

and identification and implementation of cost-effective energy efficiency, energy storage, and electric vehicle charging infrastructure measures and programs in existing and planned buildings or facilities. An eligible institution may propose a group of multiple projects where the determination of whether the projects are cost effective shall be determined by the cost-effectiveness of those multiple projects bundled together.

(b) It is further the intent of the Legislature that the commission seek the assistance of utility companies in providing energy audits for local governments and public institutions and in publicizing the availability of State Energy Conservation Assistance Account funds to qualified entities.

SEC. 2. Section 25411 of the Public Resources Code is amended to read:

25411. As used in this chapter:

(a) “Allocation” means a loan of funds by the commission pursuant to the procedures specified in this chapter.

(b) “Building” means any existing or planned structure that includes a heating or cooling system, or both. Additions to an original building shall be considered part of that building rather than a separate building. “Building” includes a tribal building.

(c) “Eligible institution” means a school, hospital, public care institution, unit of local government, or tribe.

(d) “Energy audit” means a determination of the energy consumption characteristics of a building or facility that does all of the following:

(1) Identifies the type, size, and energy use level of the building or facility and the major energy using systems of the building or facility.

(2) Determines appropriate eligible energy maintenance and operating procedures.

(3) Indicates the need, if any, for the acquisition and installation of eligible energy measures.

(e) “Eligible energy maintenance and operating procedure” means a modification or modifications in the maintenance and operations of a building or facility, and any installations therein (based on the use time schedule of the building or facility), that are designed to reduce energy consumption in the building or facility and that require no significant expenditure of funds.

(f) “Eligible energy measure” means an installation or modification of an installation in a building or facility that is primarily intended to reduce energy consumption or peak electricity demand, or that allows the use of an eligible renewable energy resource, an energy storage system, or electric vehicle charging infrastructure.

(g) “Eligible energy project” means an undertaking to acquire and to install one or more eligible energy measures in a building or facility, and technical assistance in connection with that undertaking.

(h) “Facility” means any major energy using system of an eligible institution whether or not housed in a building.

(i) “Hospital” means a public or nonprofit institution that is both of the following:

(1) A general hospital, tuberculosis hospital, or any other type of hospital, other than a hospital furnishing primarily domiciliary care.

(2) Duly authorized to provide hospital services under the laws of this state.

(j) “Hospital building” means a building housing a hospital and related operations, including laboratories, laundries, outpatient departments, nurses’ home and training activities, and central service operations in connection with a hospital, and also includes a building housing education or training activities for health professions personnel operated as an integral part of a hospital.

(k) “Local government building” means a building that is primarily occupied by offices or agencies of a unit of local government or by a public care institution.

(l) “Project” means a purpose for which an allocation may be requested and made under this chapter. Those purposes shall include energy audits, eligible energy maintenance and operating procedures, and eligible energy measures in existing and planned buildings and facilities, eligible energy projects, and technical assistance programs.

(m) “Public care institution” means a public or nonprofit institution that owns:

(1) A long-term care institution.

(2) A rehabilitation institution.

(3) An institution for the provision of public health services, including related publicly owned services such as laboratories,

clinics, and administrative offices operated in connection with the institution.

(4) A residential child care center.

(n) “Public or nonprofit institution” means an institution owned and operated by:

(1) The state, a political subdivision of the state, or an agency or instrumentality of either.

(2) An organization exempt from income tax under Section 501(c)(3) of the Internal Revenue Code of 1954.

(3) In the case of public care institutions, an organization also exempt from income tax under Section 501(c)(4) of the Internal Revenue Code of 1954.

(o) “School” means a public or nonprofit institution, including a local educational agency, which:

(1) Provides, and is legally authorized to provide, elementary education or secondary education, or both, on a day or residential basis.

(2) Provides, and is legally authorized to provide, a program of education beyond secondary education, on a day or residential basis and meets all of the following requirements:

(A) Admits as students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of that certificate.

(B) Is accredited by a nationally recognized accrediting agency or association.

(C) Provides an education program for which it awards a bachelor’s degree or higher degree or provides not less than a two-year program that is acceptable for full credit toward a degree at any institution that meets the requirements of subparagraphs (A) and (B) and provides that program.

(3) Provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and that meets the provisions of paragraph (2).

(p) “School building” means a building housing classrooms, laboratories, dormitories, athletic facilities, or related facilities operated in connection with a school.

(q) “Technical assistance costs” means costs incurred for the use of existing personnel or the temporary employment of other qualified personnel, or both, necessary for providing technical assistance.

(r) “Technical assistance program” means assistance to schools, hospitals, local government, and public care institutions and includes, but is not limited to:

(1) Conducting specialized studies identifying and specifying energy savings and related cost savings that are likely to be realized as a result of:

(A) Modification of maintenance and operating procedures in a building or facility, in addition to those modifications implemented after the preliminary energy audit, or

(B) Acquisition and installation of one or more specified eligible energy measures in the building or facility, or as a result of both.

(C) New construction activities.

(2) Planning of specific remodeling, renovation, repair, replacement, or insulation projects related to the installation of eligible energy measures in the building or facility.

(3) Developing and evaluating alternative project implementation methods and proposals.

(s) “Tribe” means a California Native American tribe located in California that is on the contact list maintained by the Native American Heritage Commission for purposes of Chapter 905 of the Statutes of 2004.

(t) “Tribal building” means a building that is owned, or primarily used, by a tribe located within or outside of Indian country, located in California, and primarily occupied by any of the following:

(1) Offices or agencies of a tribe.

(2) A health facility operated by a tribe in accordance with applicable federal operating requirements.

(3) Other facilities operated by a tribe that provide or promote tribal services for tribal members and the surrounding communities. Facilities may include a gaming facility or a portion of a gaming facility, to the extent the facility is used as a community emergency response center or a resource center for deenergization events, or other centralized areas for nongaming community services in designated situations.

(u) “Unit of local government” means a unit of general purpose government below the state, a special district, or any combination of that unit and special district formed for the joint exercise of power.

SEC. 3. Section 25412.5 of the Public Resources Code is amended to read:

25412.5. The commission shall take steps to solicit loan applications to do all of the following:

- (a) Encourage an equitable distribution of loans statewide.
- (b) Award loans for eligible energy projects or measures in regions with high summer peak loads, with high heating costs, or that have electrical or natural gas system distribution constraints.
- (c) Place an emphasis on offering these loans in disadvantaged communities.

SEC. 4. Section 25413 of the Public Resources Code is amended to read:

25413. (a) Applications for eligible energy projects or measures may be approved by the commission only in those instances where the eligible institution has furnished information satisfactory to the commission that the costs of the project, plus interest on state funds loaned, calculated in accordance with Section 25415, will be recovered through savings in the cost of energy to the institution during the repayment period of the allocation.

(b) An eligible institution may propose to bundle multiple projects where the determination of whether the costs of the projects, plus interest on state funds loaned, will be recovered through savings during the repayment period of the allocation and shall be determined by the savings of those multiple projects bundled together.

(c) The savings shall be calculated in a manner prescribed by the commission.

SEC. 5. Section 25414 of the Public Resources Code is amended to read:

25414. Annually at the conclusion of each fiscal year, but not later than October 31, each eligible institution that has received an allocation for an eligible energy project or measures pursuant to this chapter shall compute the cost of energy saved as a result of implementing an eligible energy project or measures, or bundled projects or measures, funded by the allocation. The cost shall be calculated in a manner prescribed by the commission.

SEC. 6. Section 25415 of the Public Resources Code is amended to read:

25415. (a) Each eligible institution to which an allocation has been made under this chapter shall repay the principal amount of the allocation, plus interest, in not more than 40 equal semiannual payments, as determined by the commission. Loan repayments



shall be made in accordance with a schedule established by the commission. The repayment period shall not exceed the life of the equipment, as determined by the commission or the lease term of the building in which the eligible energy, energy storage, or electric vehicle charging infrastructure project or measures will be installed.

(b) Notwithstanding any other law, the commission shall, unless it determines that the purposes of this chapter would be better served by establishing an alternative interest rate schedule, periodically set interest rates on the loans based on surveys of existing financial markets and may authorize no-interest loans.

(c) The governing body of each eligible institution shall annually budget an amount at least sufficient to make the semiannual payments required in this section. For an eligible energy project or measures, the amount shall not be raised by the levy of additional taxes but shall instead be obtained by a savings in energy costs or other sources.

SEC. 7. Section 25416 of the Public Resources Code is amended to read:

25416. (a) The State Energy Conservation Assistance Account is hereby created in the General Fund. Notwithstanding Section 13340 of the Government Code, the account is continuously appropriated to the commission without regard to fiscal year.

(b) The moneys in the account shall consist of all moneys authorized or required to be deposited in the account by the Legislature and all moneys received by the commission pursuant to Sections 25414 and 25415.

(c) The moneys in the account shall be disbursed by the Controller for the purposes of this chapter as authorized by the commission.

(d) The commission may contract and provide grants for services to be performed for eligible institutions. Services may include, but are not limited to, feasibility analysis, project design, field assistance, and operation and training. The amount expended for those services shall not exceed 10 percent of the unencumbered balance of the account as determined by the commission on July 1 of each year.

(e) The commission may make grants to eligible institutions for innovative projects and programs. Except as provided in subdivision (d), the amount expended for grants shall not exceed

5 percent of the annual unencumbered balance in the account as determined by the commission on July 1 of each fiscal year.

(f) The commission may charge a fee for the services provided under subdivision (d).

(g) Notwithstanding any other law, the Controller may use the State Energy Conservation Assistance Account for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code.

(h) (1) A subaccount is hereby created within the State Energy Conservation Assistance Account to track the award and repayment of loans, including principal, interest, and interest earnings on or accruing to the subaccount, made with moneys transferred to the account from the Greenhouse Gas Reduction Fund, created pursuant to Section 16428.8 of the Government Code. Notwithstanding Section 13340 of the Government Code, the moneys in the subaccount are hereby continuously appropriated to the commission without regard to fiscal year.

(2) Moneys deposited in the subaccount may be used for loans only for projects in buildings owned and operated by a state agency or entity, including, without limitation, the University of California and California State University.

(3) Notwithstanding Section 39718 of the Health and Safety Code, a repayment of a loan made pursuant to this chapter with moneys transferred from the Greenhouse Gas Reduction Fund shall be deposited in the subaccount and shall be available for a loan made to an entity eligible for these moneys pursuant to this subdivision.

(i) (1) A subaccount is hereby created in the State Energy Conservation Assistance Account to track the award and repayment of loans to tribes, including principal, interest, and interest earnings on or accruing to the subaccount. Notwithstanding Section 13340 of the Government Code, the moneys in the subaccount are continuously appropriated to the commission without regard to fiscal year.

(2) Moneys deposited in the subaccount shall be used for loans only to tribes.

(3) The commission may transfer moneys from the account to provide funding for the subaccount or transfer moneys from the subaccount to the account.



Approved \_\_\_\_\_, 2021

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*Governor*