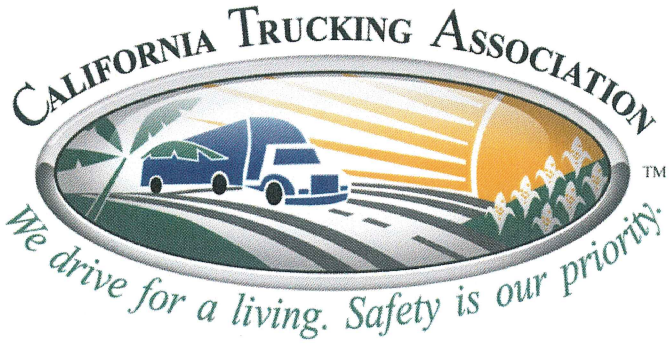


California Trucking Association
Cap-And-Trade Investment Plan Comments

March 8, 2013

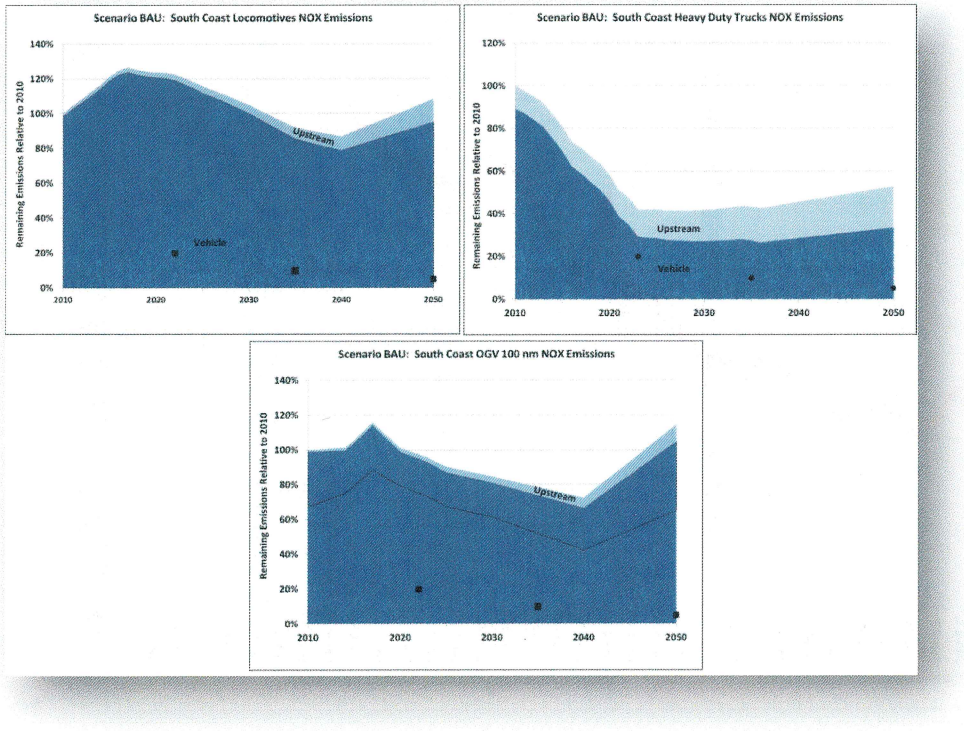
March 7, 2013

Re: Cap-and-Trade Auction Proceeds Investment Plan

The California Trucking Association (CTA) is the country's largest state trucking trade association. On behalf of our 2,000 members, we thank you for the opportunity to provide comments on your Draft Concept Paper.

Background:
From 2008-2023, California's trucking industry will spend about a billion dollars annually to upgrade to cleaner, more efficient equipment. Because of this historically large private expenditure, emission reductions from trucks will outpace rail and ship for decades to come (see Fig. 1) making trucking California's leader in sustainable freight. As California's focus broadens from control of criteria pollutant and air toxic contaminants to greenhouse gases, the trucking industry expects to continue its leading role.

Fig. 1 – Business As Usual NOx Emissions Rail/Truck/Ship in the South Coast Air Basin 2010-2050 (*source: ARB Vision Document*[1])



Californians rely on trucking to deliver 82% of its goods and services. Trucking and goods movement, in general, are major employers and supply well-paying jobs to Californians, especially those with a high school diploma or less.

[1] http://www.arb.ca.gov/planning/vision/docs/draft_scenario_assumptions_and_results_appendix.pdf

Fuel Efficiency in the Trucking Industry:
The economic model of the trucking industry trends towards fuel efficiency. Since 2003, there has been a notable disaggregation between for-hire truck tonnage and on-road taxable diesel gallons consumed (see: Fig. 2 and Fig. 3). Despite steadily growing freight demand, fuel consumption has fallen.

Fuel costs regularly poll as a top industry concern. From 2005-2008, the price of fuel placed no lower than third in the American Transportation Research Institute's (ATRI) *Top Industry Issues Survey*. Market signals have long encouraged the industry to seek reductions in fuel consumption.

Fig. 2 – American Trucking Association Freight Tonnage Index 1973 – 2013

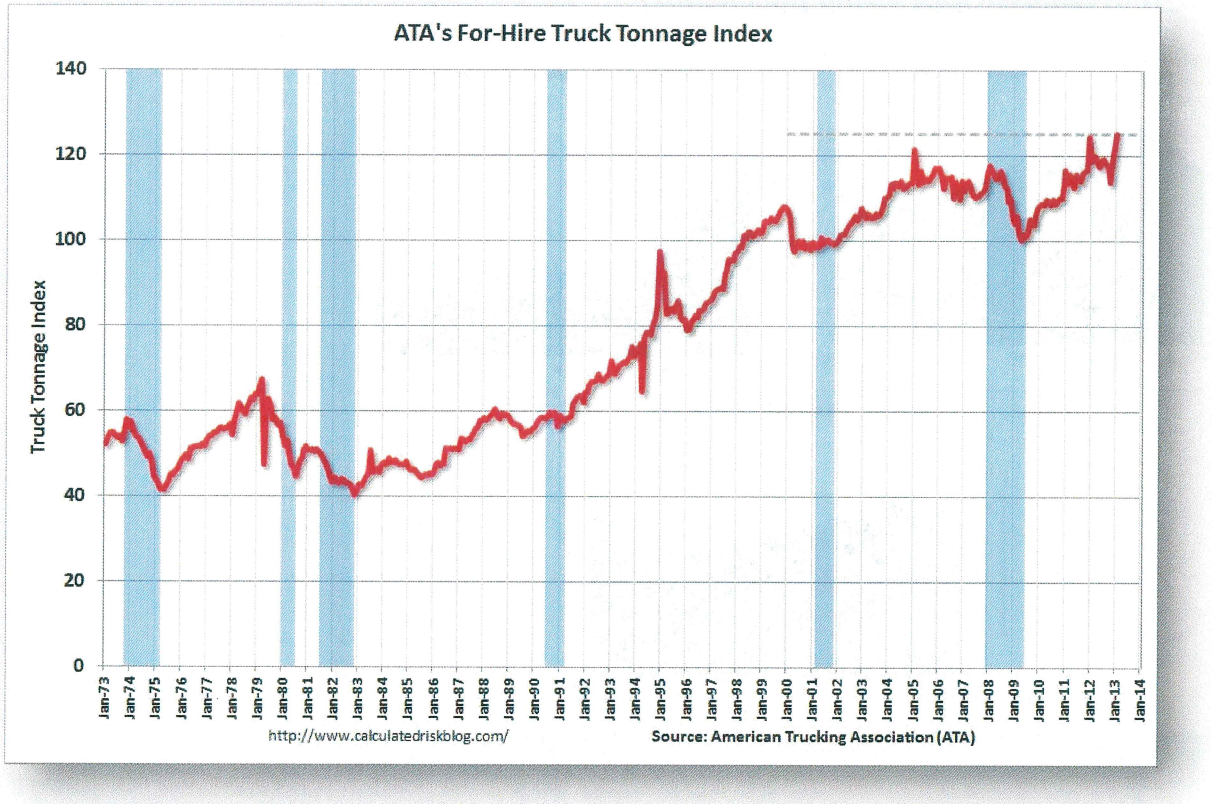
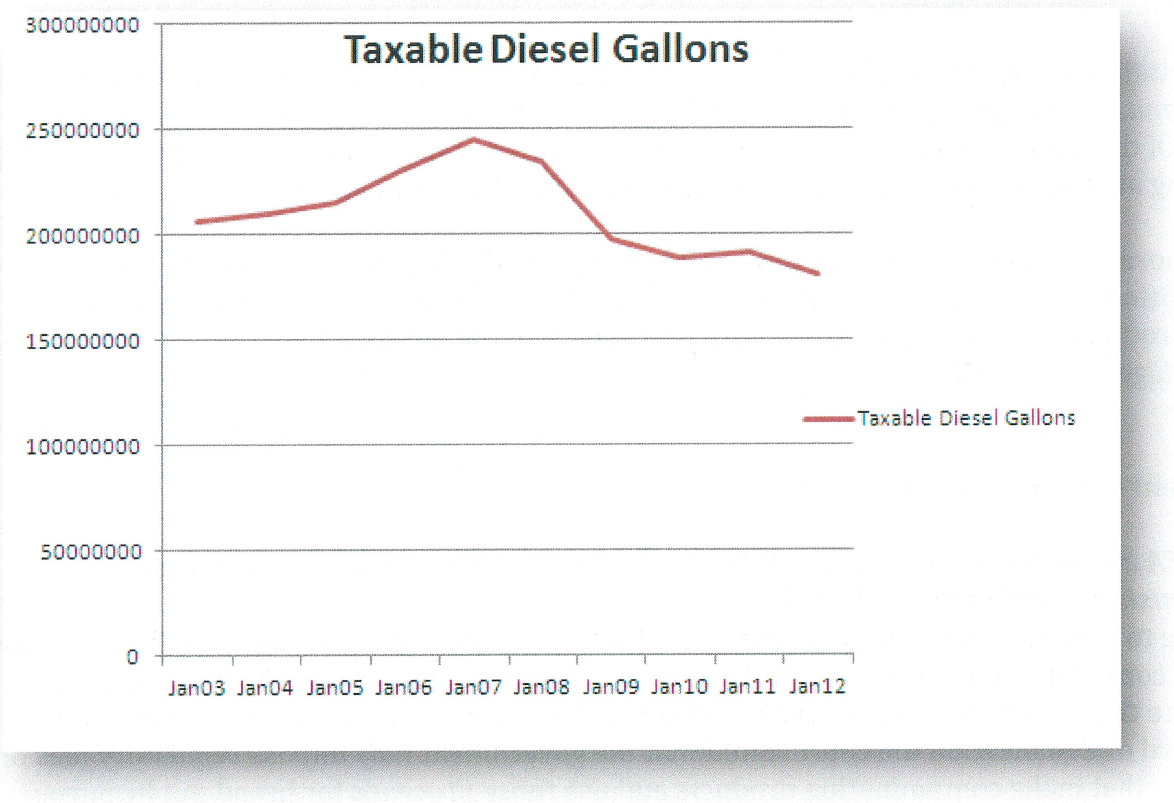


Fig. 3 – On-Highway Taxable Diesel Gallons 2003 – 2012 (Source: Board of Equalization)



Some of the fuel saving methods and technologies employed by the trucking industry include:

- Route optimization and load-pairing software eliminates wasted VMT and dead-head miles
- Idling reduction technology including Auxiliary Power Units and Automatic Shutoffs eliminate fuel waste during rest periods
- Aerodynamic retrofit kits
- Low-roll resistance tires
- Speed limiters
- Voluntary participation in the EPA's Smartway Program

Statutes:
AB 32 establishes that California greenhouse gas emissions should be reduced to 1990 levels by the year 2020. One of the strategies to reach this goal outlined in AB 32 was the establishment of a cap-and-trade market to be regulated by the California Air Resources Board (CARB). The CARB cap-and-trade regulation stipulated that the producers of 80% of state's greenhouse gas emissions would be subject to the cap, which in turn would reduce emissions by 20% as compared to the status quo. Producers include *broad scope* producers such as transportation fuel manufacturers

and refiners, and *narrow scope* producers such as utility companies and other stationary sources of greenhouse gas emissions.[2]

Transportation is responsible for nearly 40% of the overall greenhouse gas emissions levels found in California. Of this aggregate total, over 90% of those emissions are generated by on-road sources. Of that on road source total, 20% can be attributed to heavy-duty trucks, with the other 80% being attributed to private passenger vehicles.[3] (See Appendix 1)

Furthermore, as noted by staff in its draft concept paper "AB 1532 and SB 535 form the implementing statute where the Legislature provided direction on the process for allocating auction proceeds, the eligible uses for those proceeds, and the minimum level of investments in disadvantaged communities."

Investment Plan Recommendations:

1. ***CTA recommends that Cap and Trade auction revenues be allocated in a manner consistent with the Sinclair Test.***

According to the Legislative Analyst Office (LAO) and Legislative Counsel, Cap and Trade auction revenues constitute "mitigation fees". [4] Because of this interpretation, the LAO has advised the Legislature that these revenues would be subject to the "Sinclair nexus test". In Sinclair Paint v. State Board of Equalization the court stated that the government may impose regulatory fees on companies that make contaminating products and use those proceeds for broad public purposes in order to mitigate the adverse effects related to those products.

This interpretation leaves open a wide range of potential projects that could be funded which would meet the Sinclair test, but the LAO specifically notes that taxpayer dividends ("cap and dividend") or usage of revenues to provide budgetary relief to the General Fund would not meet the Sinclair test and could potentially require amendments to AB 32. [5]

2. ***Generally, to satisfy the Sinclair test, CTA recommends that generated auction revenues be proportionally apportioned towards mitigation projects approximate to each sector's relative contribution to statewide greenhouse gas emissions.***[6]

CTA recommends that all Cap and Trade auction revenues derived from the refining or sale of transportation fuel be directed towards on-road vehicle greenhouse gas mitigation projects with 20% of these revenues specifically reserved for mitigation projects for heavy trucks.

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[2] **California Air Resources Board** *California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms-Final Regulatory Order* 2010

[3] **California Air Resources Board** *2000-2009 California Greenhouse Gas Inventory Data*

[4] **California Legislative Analyst Office** *Evaluating the Policy Trade-Offs in ARB's Cap-and Trade Program* 2-9-12

[5] **California Legislative Analyst Office** *2012-2013 Budget: Cap-and Trade Auction Revenues* 2-16-2012

[6] See: Appendix B

As noted above, transportation is currently responsible for nearly 40% of the overall greenhouse gas emissions levels found in California. Of this aggregate total, over 90% of those emissions are generated by on-road sources. Of that on road source total, 20% can be attributed to heavy-duty trucks, with the other 80% being attributed to private passenger vehicles. CARB estimates that, by 2020, on-road transportation will contribute 33% of *all* greenhouses in the state, with heavy duty trucks contributing 8.1% alone. [7] These sectors are uncapped, but are rather addressed "upstream" at the fuel supplier level.

3. ***Heavy Duty Truck Greenhouse Gas Mitigation Projects can fulfill draft investment principles.***

Staff has outlined the following seven principles for the investment plan:

1. Investments must further the purposes of AB 32. All investment proposals must show how a proposed project will further the regulatory purposes of AB 32, to be eligible to receive potential funding.

2. Investments should focus on two broad project types with demonstrable GHG reductions:
   a) Projects that achieve near-term GHG emission reductions.
   b) Projects that support development of the transformative technologies/approaches needed to achieve the State's long-term GHG reduction goals.

3. Investments should be prioritized toward sectors with both the highest GHG emissions and the greatest need for future reductions to meet GHG goals.

4. State agencies should seek to maximize investments in and benefits to disadvantaged communities wherever possible.

5. Investments should foster job creation and maximize economic benefits for California wherever possible.

6. Investments should be coordinated with other local, State, and federal funding programs and avoid duplicative efforts. The State should coordinate its clean energy, transportation, and climate change investments to maximize their impacts.

7. Funding should leverage private and other government investment to the maximum extent possible.

CTA supports fuel and technology neutral approaches to truck incentives that fund up to and above of 100% of the incremental cost of advanced technologies with GHG and/or criteria emission reduction benefits compared to EPA Model Year 2010 Heavy Duty Engines. We believe these projects could satisfy all major criteria outlined by Staff in a cost-effective and efficient manner. Such projects could include, but are not limited to:

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[7] **California Air Resources Board** *Greenhouse Gas Inventory- 2020 Emissions Forecast*

- Expand existing Carl Moyer Air Quality Attainment Program to incentivize faster fleet turnover to more fuel efficient EPA14 trucks. EPA/NHTSA fuel efficiency rules require as much as a 20% reduction in fuel use.

- Expand funding for existing AB118 programs. These programs support advanced truck technology demonstration and commercialization (including nascent heavy duty ZEV technologies), alternative fuel development, alternative fuel vehicles, alternative fuel infrastructure, research and development.

- Expand PLACE Loan Program to encourage faster fleet turnover and consider additional innovative financing approaches to encourage the use of advanced technologies. Consider expanding fleet eligibility.

4. ***CTA recommends that revenues derived from cap-and trade funds be allocated for SB 375/SCS implementation purposes. These funds should be specifically allocated from the revenue stream set aside for Private Passenger GHG mitigation purposes.***[8]

The Sustainable Communities and Climate Protection Act of 2008 (SB 375) was created to assist California in obtaining its AB 32 GHG mitigation goals on a localized basis. SB 375 requires CARB to set regional greenhouse gas emission reduction targets for private passenger vehicles and light duty trucks. The legislation also stipulates that CARB is to establish targets for 2020 and 2035 for each region covered by one of the State's 18 metropolitan planning organizations (MPOs).[9] To date, the San Diego Association of Governments (SANDAG), the Southern California Association of Governments (SCAG), and the Sacramento Area Council of Governments (SACOG) have submitted their SB 375 required Sustainable Communities Strategies. These strategies inform CARB on how the region would like to obtain their regional emissions reduction targets.

In order to accomplish their emissions reduction goals, MPO's are seeking assistance to fund transit projects and other programs that will get private passenger vehicles off the road. CTA is supportive of cost effective measures intended to get cars off of our highways in order to facilitate more efficient goods movement.

For the purposes of this exercise, CTA's revenue allocation model (Appendix 3) demonstrates a 15% allocation for SB 375/SCS implementation assistance. However, the percentage allocation derived from the Private Passenger GHG Mitigation fund could be fluctuated if using the Proportional Apportionment model recommended by CTA. The final allocation should correlate with the emissions reductions that can be achieved on a statewide basis when taking into account the regional reduction targets set by CARB for each MPO.

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[8] See: Appendix B

[9] SB 375,- Senator Darrell Steinberg, Statutes of 2008

5. ***CTA recommends that revenues derived from cap-and trade funds be allocated for the development of California's High Speed Rail Project. These funds should be specifically allocated from the revenue stream set aside for Private Passenger GHG mitigation purposes.***[10]

In November 2008, California voters approved Proposition 1A, which allows the state to sell $9.95 Billion in general obligation bonds to fund the planning and construction of the high speed rail system. In addition to the funds authorized by Proposition 1A, the project has received $3.5 billion in funding for a 130 mile segment in the Central Valley. Although significant, the combined 13.45 Billion in funds that have been identified fall significantly short of the California High Speed Rail Authority's cost estimate of $68.4 Billion to complete the first phase of the project.[11] Until additional funding sources are identified, a completed high speed rail project will remain in jeopardy.

CTA recommends that policymakers utilize cap-and-trade funds to help fund the completion of California's high speed rail system. These funds should be specifically allocated from the revenue stream set aside for Private Passenger GHG mitigation purposes due to the project's goal of getting single passenger vehicles off of California's highways. By using cap-and-trade funds for the high speed rail project, policymakers can alleviate the pressure to use traditional transportation funds for its completion. Due to the state's 10-year, $341.1 billion system preservation need, CTA strongly urges policymakers to reserve traditional transportation funding sources for the maintenance and rehabilitation of California's existing transportation network.[12]

Thank you for the opportunity to comment on the investment plan draft concept paper. If you have any questions, please feel free to contact RJ Cervantes, Transportation Infrastructure Policy Manager at rjcervantes@caltrux.org or Chris Shimoda, Manager of Environmental Policy at cshimoda@caltrux.org.

Sincerely,

Eric Sauer
Vice President of Policy and Regulatory Affairs
California Trucking Association
(916)373-3562
esauer@caltrux.org

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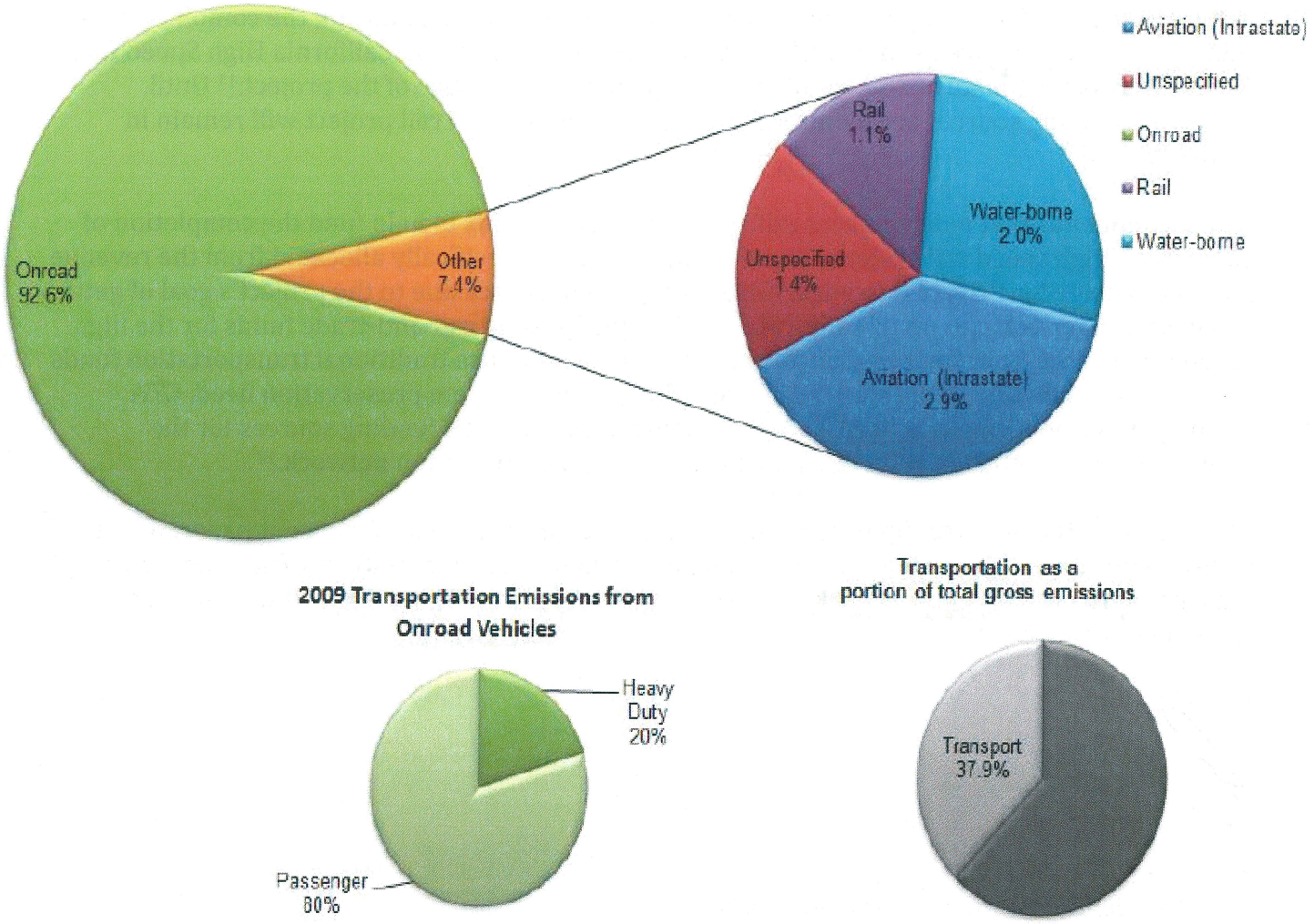
[10] See: Appendix B

[11] **California Legislative Analyst Office** The 2012-2013 Budget Funding Requests for High Speed Rail 4-17-12

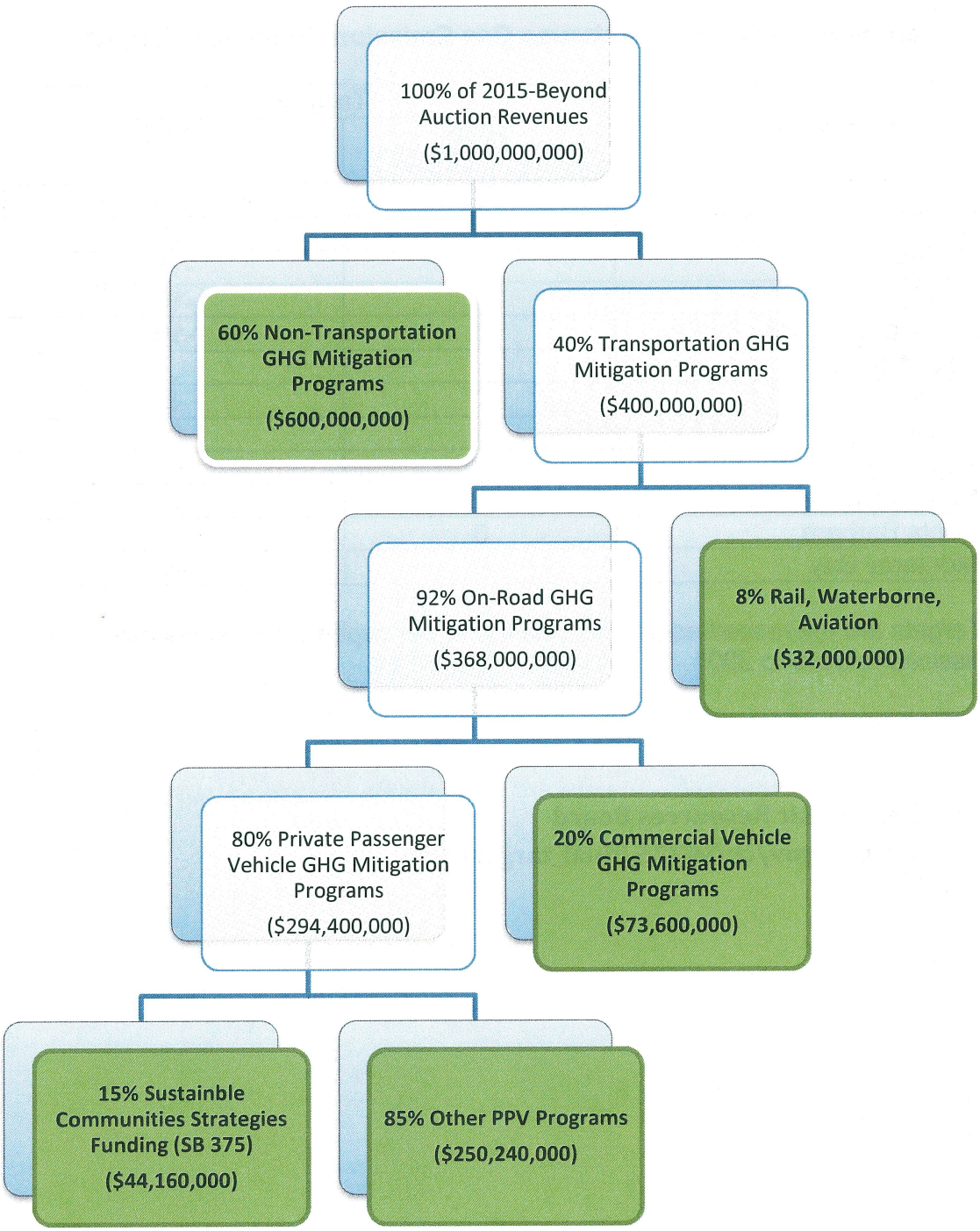
[12] **California Transportation Commission-** 2011 Statewide Transportation Needs Assessment

Appendix A: Transportation GHG Proportions



(Source: California Air Resources Board, 2000-2009 GHG Emissions Inventory Report)

Appendix B: CTA Revenue Allocation Model (Per $1 Billion Generated)



APPENDIX C: SB 375 Regional GHG Targets

Approved Regional Greenhouse Gas Emission Reduction Targets

MPO Region	Targets *	
	2020	2035
SCAG	-8	-13
MTC	-7	-15
SANDAG	-7	-13
SACOG	-7	-16
8 San Joaquin Valley MPOs	-5	-10
6 Other MPOs		
Tahoe	-7	-5
Shasta	0	0
Butte	+1	+1
San Luis Obispo	-8	-8
Santa Barbara	0	0
Monterey Bay	0	-5

* Targets are expressed as percent change in per capita greenhouse gas emissions relative to 2005.

(Source: California Air Resources Board http://www.arb.ca.gov/cc/sb375/final_targets.pdf)