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## **ICYMI: *Sacramento Bee*: California politicians already planning to spend funds endangered by lawsuit**

*Despite the lawsuit claiming the revenue is unconstitutional, the Legislature is proposing to spend cap-and-trade money*

(SACRAMENTO)—The governor and legislators have proposed spending more than \$2 billion of California’s cap-and-trade revenue windfall, even as the future of that funding is in jeopardy, pending the outcome of a lawsuit filed by the California Chamber of Commerce. The suit claims that the revenue is an unconstitutional tax since it did not receive the required two-thirds vote of the Legislature or go to a vote of the people. Instead, AB 32, the legislation that created cap-and-trade, was approved by the Legislature with a simple majority vote. Still, lawmakers appear to be much more concerned with spending cap-and-trade funding than they are with its dubious legal fate, as highlighted in yesterday’s editorial in the *Sacramento Bee*.

### ***Sacramento Bee*: Editorial: Lawmakers enjoy windfall, but for how long?**

By the billions, California’s cap-and-trade experiment is putting the green into greenhouse gas.

Gov. Jerry Brown proposes spending \$2.23 billion of the windfall. The Assembly adds to that, hoping to spend \$2.4 billion. The Senate would spend \$2.7 billion in the fiscal year starting July 1.

But sooner rather than later, lawmakers should confront a fundamental question: Will cap-and-trade revenue keep rising, or skid to an abrupt halt?

California law requires a two-thirds vote of the Legislature to approve taxes. Lawmakers passed Assembly Bill 32, the 2006 legislation that created cap and trade, by a simple majority vote.

The California Chamber of Commerce is suing, arguing that cap-and-trade revenue is a tax. The California Air Resources Board, which oversees cap and trade, says it’s not a tax. What it is, if not a tax, isn’t clear. The California Court of Appeal in Sacramento is sorting that out.

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Brown seeks \$500 million in the coming year for high-speed rail, his favored project. He’ll get that; he is the governor.

Senate President Pro Tem Kevin de León proposes directing \$500 million to regions that suffer most from pollution, including the Central Valley, and urban Los Angeles, which he represents.

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The Senate wants to infuse a “green bank” with \$25 million, to make low-interest loans for green energy projects.

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Before lawmakers grow too accustomed to cap and trade, they will need to grapple with basic questions: Is it legal, how should it be extended, and will cap and trade continue to defy gravity?

To read the entire article, please [click here](#).