TEXT OF PROPOSITION 1A

SUBJECT TO COURT
ORDERED CHANGES

PROP. 1A

This amendment proposed by ~~Assembly~~ Senate Constitutional Amendment ~~12~~ 7 of the ~~1999-~~2000 2005 Regular Session (Resolution Chapter ~~83~~ 6, Statutes of 2000 2005) expressly amends the California Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED AMENDMENT TO SECTION ~~4.5~~ 1 OF ARTICLE ~~IV~~ XIX B

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RC 49

Senate Constitutional Amendment No. 7

Adopted in Senate May 4, 2006

Secretary of the Senate

Adopted in Assembly May 5, 2006

Chief Clerk of the Assembly

This resolution was received by the Secretary of State this 9th day of May, 2006, at 1 30 o'clock p.m.

Deputy Secretary of State

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RESOLUTION CHAPTER 49

Senate Constitutional Amendment No. 7—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 1 of Article XIX B thereof, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SCA 7, Torlakson. Transportation Investment Fund.

Article XIX B of the California Constitution requires, commencing with the 2003–04 fiscal year, that sales taxes on motor vehicle fuel that are deposited into the General Fund be transferred to the Transportation Investment Fund (TIF) for allocation for various transportation purposes. Article XIX B authorizes this transfer to the TIF to be suspended in whole or in part for a fiscal year during a fiscal emergency pursuant to a proclamation by the Governor and the enactment of a statute by a 2/3 vote in each house of the Legislature if the statute does not contain any unrelated provision.

This measure would recast these suspension provisions. This measure would authorize a suspension, in whole or in part, of the transfer of these revenues to the TIF for a fiscal year if (1) the Governor issues a proclamation that the suspension is necessary due to a severe state fiscal hardship, (2) a statute containing no other unrelated provision is enacted by a 2/3 vote of each house of the Legislature suspending the transfer, and (3) a statute is enacted to repay, with interest, the TIF within 3 years for the amount of any revenues that were not transferred as a result of the suspension. This measure would also prohibit a suspension of transfer of these revenues from occurring more than twice during any period of 10 consecutive fiscal years, and would prohibit a suspension in any fiscal year in which a required repayment from a prior suspension has not been fully completed.

This measure would also require payments to be made from the General Fund to the Transportation Investment Fund relative to a portion of the revenues that were not transferred due to a suspension of transfer occurring on or before July 1, 2007, with payments made pursuant to a specified schedule.

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Resolved by the Senate, the Assembly concurring, That the Legislature of the State of California at its 2005–06 Regular Session commencing on the sixth day of December 2004, two-thirds of the membership of each house concurring, hereby proposes to the people of the State of California, that the Constitution of the State be amended as follows:

That Section 1 of Article XIX B thereof is amended to read:

LAF prop. 42 3-5-02

SECTION 1. (a) For the 2003–04 fiscal year and each fiscal year thereafter, all moneys that are collected during the fiscal year from taxes under the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), or any successor to that law, upon the sale, storage, use, or other consumption in this State of motor vehicle fuel, and that are deposited in the General Fund of the State pursuant to that law, shall be transferred to the Transportation Investment Fund, which is hereby created in the State Treasury.

(b) (1) For the 2003–04 to 2007–08 fiscal years, inclusive, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, in accordance with Section 7104 of the Revenue and Taxation Code as that section read on March 6, 2002.

s/b the operative date of this article

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(2) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated solely for the following purposes:

(A) Public transit and mass transportation.

(B) Transportation capital improvement projects, subject to the laws governing the State Transportation Improvement Program, or any successor to that program.

(C) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by cities, including a city and county.

(D) Street and highway maintenance, rehabilitation, reconstruction, or storm damage repair conducted by counties, including a city and county.

(c) For the 2008–09 fiscal year and each fiscal year thereafter, moneys in the Transportation Investment Fund shall be allocated, upon appropriation by the Legislature, as follows:

(A) Twenty percent of the moneys for the purposes set forth in subparagraph (A) of paragraph (2) of subdivision (b).

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(B) Forty percent of the moneys for the purposes set forth in subparagraph (B) of paragraph (2) of subdivision (b).

(C) Twenty percent of the moneys for the purposes set forth in subparagraph (C) of paragraph (2) of subdivision (b).

(D) Twenty percent of the moneys for the purposes set forth in subparagraph (D) of paragraph (2) of subdivision (b).

(d) (1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if all of the following conditions are met:

(A) The Governor issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues required by subdivision (a) is necessary.

(B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues required by subdivision (a) and the bill does not contain any other unrelated provision.

(C) No later than the effective date of the statute described in subparagraph (B), a separate statute is enacted that provides for the full repayment to the Transportation Investment Fund of the total amount of revenue that was not transferred to that fund as a result of the suspension, including interest as provided by law. This full repayment shall be made not later than the end of the third fiscal year immediately following the fiscal year to which the suspension applies.

(2) (A) The transfer required by subdivision (a) shall not be suspended for more than two fiscal years during any period of 10 consecutive fiscal years, which period begins with the first fiscal year commencing on or after July 1, 2007, for which the transfer required by subdivision (a) is suspended.

(B) The transfer required by subdivision (a) shall not be suspended during any fiscal year if a full repayment required by a statute enacted in accordance with subparagraph (C) of paragraph (1) has not yet been completed.

(e) The Legislature may enact a statute that modifies the percentage shares set forth in subdivision (c) by a bill passed in each house of the Legislature by rollcall vote entered in the

(d) ~~The~~ (1) Except as otherwise provided by paragraph (2), the transfer of revenues from the General Fund of the State to the Transportation Investment Fund pursuant to subdivision (a) may be suspended, in whole or in part, for a fiscal year if ~~both~~ all of the following conditions are met:

~~(1)~~ (A) The Governor ~~has issued~~ issues a proclamation that declares that, due to a severe state fiscal hardship, the suspension of the transfer of revenues ~~pursuant to~~ required by subdivision (a) ~~will result in a significant negative fiscal impact on the range of functions of government funded by the General Fund of the State~~ is necessary.

~~(2)~~ (B) The Legislature enacts by statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, a suspension for that fiscal year of the transfer of revenues ~~pursuant to~~ required by subdivision (a)~~, provided that~~ and the bill does not contain any other unrelated provision.

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Printer: set underscore as italic.

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journal, two-thirds of the membership concurring, provided that the bill does not contain any other unrelated provision and that the moneys described in subdivision (a) are expended solely for the purposes set forth in paragraph (2) of subdivision (b).

(f) (1) An amount equivalent to the total amount of revenues that were not transferred from the General Fund of the State to the Transportation Investment Fund, as of July 1, 2007, because of a suspension of transfer of revenues pursuant to this section as it read on January 1, 2006, but excluding the amount to be paid to the Transportation Deferred Investment Fund pursuant to Section 63048.65 of the Government Code, shall be transferred from the General Fund to the Transportation Investment Fund no later than June 30, 2016. Until this total amount has been transferred, the amount of transfer payments to be made in each fiscal year shall not be less than one-tenth of the total amount required to be transferred by June 30, 2016. The transferred revenues shall be allocated solely for the purposes set forth in this section as if they had been received in the absence of a suspension of transfer of revenues.

(2) The Legislature may provide by statute for the issuance of bonds by the state or local agencies, as applicable, that are secured by the minimum transfer payments required by paragraph (1). Proceeds from the sale of those bonds shall be allocated solely for the purposes set forth in this section as if they were revenues subject to allocation pursuant to paragraph (2) of subdivision (b).

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Attest:

Secretary of State

FILED
in the office of the Secretary of State
of the State of California

MAY 0 9 2006

By _____
Deputy Secretary of State

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TEXT OF PROPOSITION 1B

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PROP. 1B

This law proposed by ~~Assembly~~ Senate Bill ~~16~~ 6 of the 2001–2002 Regular Session (Chapter ~~33~~ 1266, Statutes of 2002) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the ~~Education~~ Government Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SUBJECT TO COURT ORDERED CHANGES

Ch. 25
(u)

Senate Bill No. 1266

Passed the Senate May 5, 2006

Gregory P. Schmitt
Secretary of the Senate

Passed the Assembly May 5, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this 9th day of May, 2006, at 11:30 o'clock a.m.

Jacque Roberts
Private Secretary of the Governor

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CHAPTER 25(u)

An act to add Chapter 12.49 (commencing with Section 8879.20) to Division 1 of Title 2 of the Government Code, relating to transportation, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, Perata. Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.

Existing law provides various funding sources for transportation and related purposes.

This bill, subject to voter approval at the November 7, 2006, statewide general election, would enact the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 to authorize $19.925 billion of state general obligation bonds for specified purposes, including high-priority transportation corridor improvements, State Route 99 corridor enhancements, trade infrastructure and port security projects, schoolbus retrofit and replacement purposes, state transportation improvement program augmentation, transit and passenger rail improvements, state-local partnership transportation projects, transit security projects, local bridge seismic retrofit projects, highway-railroad grade separation and crossing improvement projects, state highway safety and rehabilitation projects, and local street and road improvement, congestion relief, and traffic safety.

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

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

SECTION 1. Chapter 12.49 (commencing with Section 8879.20) is added to Division 1 of Title 2 of the Government Code, to read:

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CHAPTER 12.49. THE HIGHWAY SAFETY, TRAFFIC REDUCTION, AIR QUALITY, AND PORT SECURITY BOND ACT OF 2006

Article 1. General Provisions

8879.20. (a) This chapter shall be known as the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.

(b) This chapter shall only become operative upon adoption by the voters at the November 7, 2006, statewide general election.

8879.22. As used in this chapter, the following terms have the following meanings:

(a) "Board" means any department receiving an allocation of bond proceeds pursuant to this chapter.

(b) "Committee" means the Highway Safety, Traffic Reduction, Air Quality, and Port Security Committee created pursuant to Section 8879.27.

(c) "Fund" means the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 created pursuant to Section 8879.23.

Article 2. Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 and Program

8879.23. The Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006 is hereby created in the State Treasury. The Legislature intends that the proceeds of bonds deposited in the fund shall be used to fund the mobility, safety, and air quality improvements described in this article over the course of the next decade. The proceeds of bonds issued and sold pursuant to this chapter for the purposes specified in this chapter shall be allocated in the following manner:

(a) (1) Four billion five hundred million dollars ($4,500,000,000) shall be deposited in the Corridor Mobility Improvement Account, which is hereby created in the fund. Funds in the account shall be available to the California Transportation Commission, upon appropriation in the annual Budget Bill by the Legislature, for allocation for performance improvements on highly congested travel corridors in California.

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Funds in the account shall be used for performance improvements on the state highway system, or major access routes to the state highway system on the local road system that relieve congestion by expanding capacity, enhancing operations, or otherwise improving travel times within these high-congestion travel corridors, as identified by the department and regional or local transportation agencies, pursuant to the process in paragraph (3) or (4), as applicable.

(2) The commission shall develop and adopt guidelines, by December 1, 2006, including regional programming targets, for the program funded by this subdivision, and shall allocate funds from the account to projects after reviewing project nominations submitted by the Department of Transportation and by regional transportation planning agencies or county transportation commissions or authorities pursuant to paragraph (4).

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(3) Subject to the guidelines adopted pursuant to paragraph (2), the department shall nominate, by no later than January 15, 2007, projects for the allocation of funds from the account on a statewide basis. The department's nominations shall be geographically balanced and shall reflect the department's assessment of a program that best meets the policy objectives described in paragraph (1).

(4) Subject to the guidelines adopted pursuant to paragraph (2), a regional transportation planning agency or county transportation commission or authority responsible for preparing a regional transportation improvement plan under Section 14527 may nominate projects identified pursuant to paragraph (1) that best meet the policy objectives described in that paragraph for funding from the account. Projects nominated pursuant to this paragraph shall be submitted to the commission for consideration for funding by no later than January 15, 2007.

(5) All nominations to the California Transportation Commission shall be accompanied by documentation regarding the quantitative and qualitative measures validating each project's consistency with the policy objectives described in paragraph (1). All projects nominated to the commission for funds from this account shall be included in a regional transportation plan.

(6) After review of the project nominations, and supporting documentation, the commission, by no later than March 1, 2007,

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shall adopt an initial program of projects to be funded from the account. This program may be updated every two years in conjunction with the biennial process for adoption of the state transportation improvement program pursuant to guidelines adopted by the commission. The inclusion of a project in the program shall be based on a demonstration that the project meets all of the following criteria:

(A) Is a high-priority project in the corridor as demonstrated by either of the following: (i) its inclusion in the list of nominated projects by both the department pursuant to paragraph (3) and the regional transportation planning agency or county transportation commission or authority, pursuant to paragraph (4); or (ii) if needed to fully fund the project, the identification and commitment of supplemental funding to the project from other state, local, or federal funds.

(B) Can commence construction or implementation no later than December 31, 2012.

(C) Improves mobility in a high-congestion corridor by improving travel times or reducing the number of daily vehicle hours of delay, improves the connectivity of the state highway system between rural, suburban, and urban areas, or improves the operation or safety of a highway or road segment.

(D) Improves access to jobs, housing, markets, and commerce.

(7) Where competing projects offer similar mobility improvements to a specific corridor, the commission shall consider additional benefits when determining which project shall be included in the program for funding. These benefits shall include, but are not limited to, the following:

(A) A finding that the project provides quantifiable air quality benefits.

(B) A finding that the project substantially increases the safety for travelers in the corridor.

(8) In adopting a program for funding pursuant to this subdivision, the commission shall make a finding that the program is (i) geographically balanced, consistent with the geographic split for funding described in Section 188 of the Streets and Highways Code; (ii) provides mobility improvements in highly traveled or highly congested corridors in all regions of California; and (iii) targets bond proceeds in a manner that provides the increment of funding necessary, when combined

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with other state, local or federal funds, to provide the mobility benefit in the earliest possible timeframe.

(9) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the mobility improvements the program is achieving.

(b) One billion dollars ($1,000,000,000) shall be made available, upon appropriation in the annual Budget Bill by the Legislature, to the department for improvements to State Route 99. Funds may be used for safety, operational enhancements, rehabilitation, or capacity improvements necessary to improve the State Route 99 corridor traversing approximately 400 miles of the central valley of this state.

(c) Three billion one hundred million dollars ($3,100,000,000) shall be deposited in the California Ports Infrastructure, Security, and Air Quality Improvement Account, which is hereby created in the fund. The money in the account shall be available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, as follows:

(1) (A) Two billion dollars ($2,000,000,000) shall be transferred to the Trade Corridors Improvement Fund, which is hereby created. The money in this fund shall be available, upon appropriation in the annual Budget Bill by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for allocation by the California Transportation Commission for infrastructure improvements along federally designated "Trade Corridors of National Significance" in this state or along other corridors within this state that have a high volume of freight movement, as determined by the commission. In determining projects eligible for funding, the commission shall consult the trade infrastructure and goods movement plan submitted to the commission by the Secretary of Business, Transportation and Housing and the Secretary for Environmental Protection. No moneys shall be allocated from this fund until the report is submitted to the commission for its consideration, provided the report is submitted no later than January 1, 2007.

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The commission shall also consult trade infrastructure and goods movement plans adopted by regional transportation planning agencies, adopted regional transportation plans required by state and federal law, and the statewide port master plan prepared by the California Marine and Intermodal Transportation System Advisory Council (Cal-MITSAC) pursuant to Section 1760 of the Harbors and Navigation Code, when determining eligible projects for funding. Eligible projects for these funds include, but are not limited to, all of the following:

(i) Highway capacity improvements and operational improvements to more efficiently accommodate the movement of freight, particularly for ingress and egress to and from the state's seaports, including navigable inland waterways used to transport freight between seaports, land ports of entry, and airports, and to relieve traffic congestion along major trade or goods movement corridors.

(ii) Freight rail system improvements to enhance the ability to move goods from seaports, land ports of entry, and airports to warehousing and distribution centers throughout California, including projects that separate rail lines from highway or local road traffic, improve freight rail mobility through mountainous regions, relocate rail switching yards, and other projects that improve the efficiency and capacity of the rail freight system.

(iii) Projects to enhance the capacity and efficiency of ports.

(iv) Truck corridor improvements, including dedicated truck facilities or truck toll facilities.

(v) Border access improvements that enhance goods movement between California and Mexico and that maximize the state's ability to access coordinated border infrastructure funds made available to the state by federal law.

(vi) Surface transportation improvements to facilitate the movement of goods to and from the state's airports.

(B) The commission shall allocate funds for trade infrastructure improvements from the account in a manner that (i) addresses the state's most urgent needs, (ii) balances the demands of various ports (between large and small ports, as well as between seaports, airports, and land ports of entry), (iii) provides reasonable geographic balance between the state's regions, and (iv) places emphasis on projects that improve trade corridor mobility while reducing emissions of diesel particulate

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and other pollutant emissions. In addition, the commission shall also consider the following factors when allocating these funds:

(i) "Velocity," which means the speed by which large cargo would travel from the port through the distribution system.

(ii) "Throughput," which means the volume of cargo that would move from the port through the distribution system.

(iii) "Reliability," which means a reasonably consistent and predictable amount of time for cargo to travel from one point to another on any given day or at any given time in California.

(iv) "Congestion reduction," which means the reduction in recurrent daily hours of delay to be achieved.

(C) The commission shall allocate funds made available by this paragraph to projects that have identified and committed supplemental funding from appropriate local, federal or private sources. The commission shall determine the appropriate amount of supplemental funding each project should have to be eligible for moneys from this fund based on a project-by-project review and an assessment of the project's benefit to the state and the program. Except for border access improvements described in clause (v) of subparagraph (A), improvements funded with moneys from this fund shall have supplemental funding that is at least equal to the amount of the contribution from the fund. The commission may give priority for funding to projects with higher levels of committed supplemental funding.

(D) The commission shall include in its annual report to the Legislature, required by Section 14535, a summary of its activities related to the administration of this program. The summary should, at a minimum, include a description and the location of the projects contained in the program, the amount of funds allocated to each project, the status of each project, and a description of the mobility and air quality improvements the program is achieving.

(2) One billion dollars ($1,000,000,000) shall be made available, upon appropriation by the Legislature and subject to such conditions and criteria contained in a statute enacted by the Legislature, to the State Air Resources Board for emission reductions, not otherwise required by law or regulation, from activities related to the movement of freight along California's trade corridors. Funds made available by this paragraph are intended to supplement existing funds used to finance strategies

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and public benefit projects that reduce emissions and improve air quality in trade corridors commencing at the state's airports, seaports, and land ports of entry.

(3) One hundred million dollars ($100,000,000) shall be available, upon appropriation by the Legislature, to the Office of Emergency Services to be allocated, as grants, for port, harbor, and ferry terminal security improvements. Eligible applicants shall be publicly owned ports, harbors, and ferryboat and ferry terminal operators, which may submit applications for projects that include, but are not limited to, the following:

(A) Video surveillance equipment.

(B) Explosives detection technology, including, but not limited to, X-ray devices.

(C) Cargo scanners.

(D) Radiation monitors.

(E) Thermal protective equipment.

(F) Site identification instruments capable of providing a fingerprint for a broad inventory of chemical agents.

(G) Other devices capable of detecting weapons of mass destruction using chemical, biological, or other similar substances.

(H) Other security equipment to assist in any of the following:

(i) Screening of incoming vessels, trucks, and incoming or outbound cargo.

(ii) Monitoring the physical perimeters of harbors, ports, and ferry terminals.

(iii) Providing or augmenting onsite emergency response capability.

(I) Overweight cargo detection equipment, including, but not limited to, intermodal crane scales and truck weight scales.

(J) Developing disaster preparedness or emergency response plans.

The Office of Emergency Services shall report to the Legislature on March 1 of each year on the manner in which the funds available pursuant to this paragraph were expended for that fiscal year.

(d) Two hundred million dollars ($200,000,000) shall be available, upon appropriation by the Legislature, for schoolbus retrofit and replacement to reduce air pollution and to reduce children's exposure to diesel exhaust.

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(e) Two billion dollars ($2,000,000,000) shall be available for projects in the state transportation improvement program, to augment funds otherwise available for this purpose from other sources. The funds provided by this subdivision shall be deposited in the Transportation Facilities Account which is hereby created in the fund, and shall be available, upon appropriation by the Legislature, to the Department of Transportation, as allocated by the California Transportation Commission in the same manner as funds allocated for those projects under existing law.

(f) (1) Four billion dollars ($4,000,000,000) shall be deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account, which is hereby created in the fund. Funds in the account shall be made available, upon appropriation by the Legislature, to the Department of Transportation for intercity rail projects and to commuter or urban rail operators, bus operators, waterborne transit operators, and other transit operators in California for rehabilitation, safety or modernization improvements, capital service enhancements or expansions, new capital projects, bus rapid transit improvements, or for rolling stock procurement, rehabilitation, or replacement.

(2) Of the funds made available in paragraph (1), four hundred million dollars ($400,000,000) shall be available, upon appropriation by the Legislature, to the department for intercity rail improvements, of which one hundred twenty-five million dollars ($125,000,000) shall be used for the procurement of additional intercity railcars and locomotives.

(3) Of the funds remaining after the allocations in paragraph (2), 50 percent shall be distributed to the Controller, for allocation to eligible agencies using the formula in Section 99314 of the Public Utilities Code, and 50 percent shall be distributed to the Controller, for allocation to eligible agencies using the formula in Section 99313 of the Public Utilities Code, subject to the provisions governing funds allocated under those sections.

(g) One billion dollars ($1,000,000,000) shall be deposited in the State-Local Partnership Program Account, which is hereby created in the fund. The funds shall be available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for allocation by the California Transportation Commission over a

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five-year period to eligible transportation projects nominated by an applicant transportation agency. A dollar for dollar match of local funds shall be required for an applicant transportation agency to receive state funds under this program.

(h) One billion dollars ($1,000,000,000) shall be deposited in the Transit System Safety, Security, and Disaster Response Account, which is hereby created in the fund. Funds in the account shall be made available, upon appropriation by the Legislature and subject to such conditions and criteria as the Legislature may provide by statute, for capital projects that provide increased protection against a security and safety threat, and for capital expenditures to increase the capacity of transit operators, including waterborne transit operators, to develop disaster response transportation systems that can move people, goods, and emergency personnel and equipment in the aftermath of a disaster impairing the mobility of goods, people, and equipment.

(i) One hundred twenty-five million dollars ($125,000,000) shall be deposited in the Local Bridge Seismic Retrofit Account, which is hereby created in the fund. The funds in the account shall be used, upon appropriation by the Legislature, to provide the 11.5 percent required match for federal Highway Bridge Replacement and Repair funds available to the state for seismic work on local bridges, ramps, and overpasses, as identified by the Department of Transportation.

(j) (1) Two hundred fifty million dollars ($250,000,000) shall be deposited in the Highway-Railroad Crossing Safety Account, which is hereby created in the fund. Funds in the account shall be available, upon appropriation by the Legislature, to the Department of Transportation for the completion of high-priority grade separation and railroad crossing safety improvements. Funds in the account shall be made available for allocation pursuant to the process established in Chapter 10 (commencing with Section 2450) of Division 3 of the Streets and Highways Code, except that a dollar for dollar match of nonstate funds shall be provided for each project, and the limitation on maximum project cost in subdivision (g) of Section 2454 of the Streets and Highways Code shall not be applicable to projects funded with these funds.

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(2) Notwithstanding the funding allocation process described in paragraph (1), in consultation with the department and the Public Utilities Commission, the California Transportation Commission shall allocate one hundred million dollars ($100,000,000) of the funds in the account to high-priority railroad crossing improvements, including grade separation projects, that are not part of the process established in Chapter 10 (commencing with Section 2450) of Division 3 of the Streets and Highways Code. The allocation of funds under this paragraph shall be made in consultation and coordination with the High-Speed Rail Authority created pursuant to Division 19.5 (commencing with Section 185000) of the Public Utilities Code.

(k) (1) Seven hundred fifty million dollars ($750,000,000) shall be deposited in the Highway Safety, Rehabilitation, and Preservation Account, which is hereby created in the fund. Funds in the account shall be available, upon appropriation by the Legislature, to the Department of Transportation, as allocated by the California Transportation Commission, for the purposes of the state highway operation and protection program as described in Section 14526.5.

(2) The department shall develop a program for distribution of two hundred and fifty million dollars ($250,000,000) from the funds identified in paragraph (1) to fund traffic light synchronization projects or other technology-based improvements to improve safety, operations and the effective capacity of local streets and roads.

(*l*) (1) Two billion dollars ($2,000,000,000) shall be deposited in the Local Streets and Road Improvement, Congestion Relief, and Traffic Safety Account of 2006, which is hereby created in the fund. The proceeds of bonds deposited into that account shall be available, upon appropriation by the Legislature, for the purposes specified in this subdivision to the Controller for administration and allocation in the fiscal year in which the bonds are issued and sold, including any interest or other return earned on the investment of those moneys, in the following manner:

(A) Fifty percent to the counties, including a city and county, in accordance with the following formulas:

(i) Seventy-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the

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proportion that the number of fee-paid and exempt vehicles that are registered in the county bears to the number of fee-paid and exempt vehicles registered in the state

(ii) Twenty-five percent of the funds payable under this subparagraph shall be apportioned among the counties in the proportion that the number of miles of maintained county roads in each county bears to the total number of miles of maintained county roads in the state. For the purposes of apportioning funds under this clause, any roads within the boundaries of a city and county that are not state highways shall be deemed to be county roads.

(B) Fifty percent to the cities, including a city and county, apportioned among the cities in the proportion that the total population of the city bears to the total population of all the cities in the state, provided, however, that the Controller shall allocate a minimum of four hundred thousand dollars ($400,000) to each city, pursuant to this subparagraph.

(2) Funds received under this subdivision shall be deposited as follows in order to avoid the commingling of those funds with other local funds:

(A) In the case of a city, into the city account that is designated for the receipt of state funds allocated for local streets and roads.

(B) In the case of an eligible county, into the county road fund.

(C) In the case of a city and county, into a local account that is designated for the receipt of state funds allocated for local streets and roads.

(3) For the purpose of allocating funds under this subdivision to cities and a city and county, the Controller shall use the most recent population estimates prepared by the Demographic Research Unit of the Department of Finance. For a city that incorporated after January 1, 1998, that does not appear on the most recent population estimates prepared by the Demographic Research Unit, the Controller shall use the population determined for that city under Section 11005.3 of the Revenue and Taxation Code.

(4) Funds apportioned to a city, county, or city and county under this subdivision shall be used for improvements to transportation facilities that will assist in reducing local traffic congestion and further deterioration, improving traffic flows, or

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increasing traffic safety that may include, but not be limited to, street and highway pavement maintenance, rehabilitation, installation, construction and reconstruction of necessary associated facilities such as drainage and traffic control devices, or the maintenance, rehabilitation, installation, construction and reconstruction of facilities that expand ridership on transit systems, safety projects to reduce fatalities, or as a local match to obtain state or federal transportation funds for similar purposes.

(5) At the conclusion of each fiscal year during which a city or county expends the funds it has received under this subdivision, the Controller may verify the city's or county's compliance with paragraph (4). Any city or county that has not complied with paragraph (4) shall reimburse the state for the funds it received during that fiscal year. Any funds withheld or returned as a result of a failure to comply with paragraph (4) shall be reallocated to the other counties and cities whose expenditures are in compliance.

Article 3. Fiscal Provisions

8879.25. Bonds in the total amount of nineteen billion nine hundred twenty-five million dollars ($19,925,000,000), exclusive of refunding bonds, or so much thereof as is necessary, are hereby authorized to be issued and sold for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5. All bonds herein authorized which have been duly sold and delivered as provided herein shall constitute valid and legally binding general obligations of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal and interest thereof.

8879.26. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4), except subdivision (a) of Section 16727 to the extent that subdivision is inconsistent with this chapter, and all of the other provisions of that law as amended from time to time apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

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8879.27. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Committee is hereby created. For the purposes of this chapter, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Controller, the Director of Finance, and the Secretary of the Business, Transportation and Housing Agency, or a designated representative of each of those officials. The Treasurer shall serve as the chairperson of the committee. A majority of the committee may act for the committee.

(b) The committee may adopt guidelines establishing requirements for administration of its financing programs to the extent necessary to protect the validity of, and tax exemption for, interest on the bonds. The guidelines shall not constitute rules, regulations, orders, or standards of general application.

(c) For the purposes of the State General Obligation Bond Law, any department receiving an allocation pursuant to this chapter is designated to be the "board."

8879.28. Upon request of the board stating that funds are needed for purposes of this chapter, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 8879.23, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and are not required to be sold at any one time. Bonds may bear interest subject to federal income tax.

8879.29. There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, the bonds as provided herein, and all officers required by law to perform any duty in regard to the collections of state revenues shall collect that additional sum.

8879.30. Notwithstanding Section 13340, there is hereby appropriated from the General Fund in the State Treasury, for the

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purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out Section 8879.32, appropriated without regard to fiscal years.

8879.31. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312, for purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount withdrawn pursuant to Section 8879.32. The board shall execute any documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated in accordance with this chapter.

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8879.32. For the purpose of carrying out this chapter, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of any amount or amounts not to exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the Highway Safety, Traffic Reduction, Air Quality, and Port Security Fund of 2006. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds which would otherwise be deposited in that fund.

8879.33. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the electors of this act shall constitute approval of any refunding bonds issued pursuant to the State General Obligation Bond Law.

8879.34. Notwithstanding any provisions in the State General Obligation Bond Law, the maximum maturity of any bonds authorized by this chapter shall not exceed 30 years from the date of each respective series. The maturity of each series shall be calculated from the date of each series.

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8879.35. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

8879.36. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this chapter that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4, the Treasurer may maintain a separate account for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

8879.37. All money derived from premium and accrued interest on bonds sold pursuant to this chapter shall be transferred to the General Fund as a credit to expenditures for bond interest.

~~SEC. 2. Section 1 of this act shall become operative upon the adoption by the voters of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, as set forth in Section 1 of this act.~~

SEC. 3. Notwithstanding Sections 13115 and 13117 of the Elections Code, the following measures shall be placed on the ballot for the November 7, 2006, statewide general election in the following order:

(a) Senate Constitutional Amendment No. 7 of the 2005–2006 Regular Session shall be placed first on the ballot and shall be designated as Proposition 1A.

(b) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 shall be placed second on the ballot and shall be designated as Proposition 1B.

(c) The Housing and Emergency Shelter Trust Fund Act of 2006 shall be placed third on the ballot and shall be designated as Proposition 1C.

(d) The Kindergarten-University Public Education Facilities Bond Act of 2006 shall be placed fourth on the ballot and shall be designated as Proposition 1D.

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(e) The Disaster Preparedness and Flood Prevention Bond Act of 2006 shall be placed fifth on the ballot and shall be designated as Proposition 1E.

SEC. 4. (a) Notwithstanding any other provision of law, all ballots of the November 7, 2006, statewide general election shall have printed thereon and in a square thereof, the words "Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006," and in the same square under those words, the following in 8-point type:

"This act makes safety improvements and repairs to state highways, upgrades freeways to reduce congestion, repairs local streets and roads, upgrades highways along major transportation corridors, improves seismic safety of local bridges, expands public transit, helps complete the state's network of car pool lanes, reduces air pollution, and improves anti-terrorism security at shipping ports by providing for a bond issue not to exceed nineteen billion nine hundred twenty-five million dollars ($19,925,000,000)."

Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(c) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

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In order for the bond act in Section 1 of this act to be submitted to the voters at the November 7, 2006, statewide general election, it is necessary for this act to take effect immediately.

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FILED
in the office of the Secretary of State
of the State of California

MAY 16 2006

At 1:50 O'clock P M.
BRUCE McPHERSON, Secretary of State
By _____
Deputy Secretary of State

Approved MAY 16 2006, 2006

_____
Governor

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TEXT OF PROPOSITION 1C

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PROP. 1C

Senate 1689 5 6

27 This law proposed by ~~Assembly~~ Bill ~~16~~ of the 2001–2002 Regular Session (Chapter ~~33~~, Statutes of 2002) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution. 6

This proposed law adds sections to the ~~Education~~ Health and Safety Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

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Ch. 27
(11)

Senate Bill No. 1689

Passed the Senate May 4, 2006

Gregg P. Schmitt
Secretary of the Senate

Passed the Assembly May 5, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this 9th day of May, 2006, at 11:30 o'clock a.m.

Jacque Robertson
Private Secretary of the Governor

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CHAPTER 27(u)

An act to add Part 12 (commencing with Section 53540) and Part 13 (commencing with Section 53560) to Division 31 of the Health and Safety Code, relating to housing, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1689, Perata. Housing and Emergency Shelter Trust Fund Act of 2006.

Under existing law, there are programs providing assistance for, among other things, multifamily housing, emergency housing, farmworker housing, home ownership for very low and low-income households, and downpayment assistance for first-time homebuyers.

This bill would enact the Housing and Emergency Shelter Trust Fund Act of 2006, which, if adopted, would authorize the issuance of bonds in the amount of $2,850,000,000 pursuant to the State General Obligation Bond Law. Proceeds from the sale of these bonds would be used to finance various existing housing programs, capital outlay related to infill development, brownfield cleanup that promotes infill development, and housing-related parks.

The bill would also establish the Transit-Oriented Development Implementation Program, to be administered by the Department of Community Housing and Development. The program would receive funding from the proceeds of the bond act enacted by this bill.

The bill would provide for submission of the bond act to the voters at the November 7, 2006, statewide general election in accordance with specified law.

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

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

SECTION 1. The Legislature finds and declares as follows:

(a) Funding approved by the state's voters in 2002 for greater production of affordable housing in California financed the construction, rehabilitation, or preservation of 17,700 affordable apartments, created or rehabilitated 9,055 shelter spaces, and helped nearly 18,000 families become or remain homeowners. Nearly all of the voter-approved funding for affordable housing is expected to be awarded by the end of 2006.

(b) Only 14 percent of families statewide are able to afford the median-priced home in California, now estimated at more than five hundred sixty-one thousand dollars ($561,000). California is home to 21 of the 25 least affordable metropolitan areas in the country for home ownership and 9 of the 10 least affordable counties nationwide for renters.

(c) Increasingly, California working families endure longer commute times as they seek affordable housing outside of the urban areas in which they work. Commute times in each of the state's 10 most populous counties have risen by double-digit percentages over the last 10 years.

(d) California's congestion problems and strain on its transportation system are made worse by the lack of available affordable housing in the state's urban areas. To the extent additional affordable housing can be maintained or provided in the state's urban areas, additional traffic and related expenditures on transportation facilities is avoidable, and allows limited transportation resources to be deployed more efficiently.

SEC. 2. Part 12 (commencing with Section 53540) is added to Division 31 of the Health and Safety Code, to read:

PART 12. HOUSING AND EMERGENCY SHELTER TRUST FUND ACT OF 2006

CHAPTER 1. GENERAL PROVISIONS

53540. (a) This part shall be known as the Housing and Emergency Shelter Trust Fund Act of 2006.

(b) This part shall only become operative upon adoption by the voters at the November 7, 2006, statewide general election.

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53541. As used in this part, the following terms have the following meanings:

(a) "Board" means the Department of Housing and Community Development for programs administered by the department, and the California Housing Finance Agency for programs administered by the agency.

(b) "Committee" means the Housing Finance Committee created pursuant to Section 53524 and continued in existence pursuant to Section 53548.

(c) "Fund" means the Housing and Emergency Shelter Trust Fund created pursuant to Section 53545.

CHAPTER 2. HOUSING AND EMERGENCY SHELTER TRUST FUND OF 2006 AND PROGRAM

53545. The Housing and Emergency Shelter Trust Fund of 2006 is hereby created in the State Treasury. The Legislature intends that the proceeds of bonds deposited in the fund shall be used to fund the housing-related programs described in this chapter over the course of the next decade. The proceeds of bonds issued and sold pursuant to this part for the purposes specified in this chapter shall be allocated in the following manner:

(a) (1) One billion five hundred million dollars ($1,500,000,000) to be deposited in the Affordable Housing Account, which is hereby created in the fund. Notwithstanding Section 13340 of the Government Code, the money in the account shall be continuously appropriated in accordance with the following schedule:

(A) (i) Three hundred forty-five million dollars ($345,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2. The priorities specified in Section 50675.13 shall apply to the expenditure of funds pursuant to this clause.

(ii) Fifty million dollars ($50,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended under the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2 for housing meeting the definitions in paragraphs (2) and (3) of subdivision (e) of

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Section 11139.3 of the Government Code. The department may provide higher per-unit loan limits as necessary to achieve affordable housing costs to the target population. Any funds not encumbered for the purposes of this clause within 30 months of availability shall revert for general use in the Multifamily Housing Program.

(B) One hundred ninety-five million dollars ($195,000,000) shall be transferred to the Housing Rehabilitation Loan Fund to be expended for the Multifamily Housing Program authorized by Chapter 6.7 (commencing with Section 50675) of Part 2, to be used for supportive housing for individuals and households moving from emergency shelters or transitional housing or those at risk of homelessness. The Department of Housing and Community Development shall provide for higher per-unit loan limits as reasonably necessary to achieve housing costs affordable to those individuals and households. For purposes of this subparagraph, "supportive housing" means housing with no limit on length of stay, that is occupied by the target population, as defined in subdivision (d) of Section 53260, and that is linked to onsite or offsite services that assist the tenant to retain the housing, improve his or her health status, maximize his or her ability to live, and, when possible, work in the community. The criteria for selecting projects shall give priority to:

(i) Supportive housing for people with disabilities who would otherwise be at high risk of homelessness where the applications represent collaboration with programs that meet the needs of the person's disabilities.

(ii) Projects that demonstrate funding commitments from local governments for operating subsidies or services funding, or both, for five years or longer.

(C) One hundred thirty-five million dollars ($135,000,000) shall be transferred to the fund created by subdivision (b) of Section 50517.5 to be expended for the programs authorized by Chapter 3.2 (commencing with Section 50517.5) of Part 2.

(D) Three hundred million dollars ($300,000,000) shall be transferred to the Self-Help Housing Fund created by Section 50697.1. These funds shall be available to the Department of Housing and Community Development, to be expended for the purposes of enabling households to become or remain homeowners pursuant to the CalHome Program authorized by

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Chapter 6 (commencing with Section 50650) of Part 2, except ten million dollars ($10,000,000) shall be expended for construction management under the California Self-Help Housing Program pursuant to subdivision (b) of Section 50696.

(E) Two hundred million dollars ($200,000,000) shall be transferred to the Self-Help Housing Fund created by Section 50697.1. These funds shall be available to the California Housing Finance Agency, to be expended for the purposes of the California Homebuyer's Downpayment Assistance Program authorized by Chapter 11 (commencing with Section 51500) of Part 3. Up to one hundred million dollars ($100,000,000) of these funds may be expended pursuant to subdivision (b) of Section 51504.

(F) One hundred million dollars ($100,000,000) shall be transferred to the Affordable Housing Innovation Fund, which is hereby created in the State Treasury, to be administered by the Department of Housing and Community Development. Funds shall be expended for competitive grants or loans to sponsoring entities that develop, own, lend, or invest in affordable housing and used to create pilot programs to demonstrate innovative, cost-saving approaches to creating or preserving affordable housing. Specific criteria establishing eligibility for and use of the funds shall be established in statute as approved by a 2/3 vote of each house of the Legislature. Any funds not encumbered for the purposes set forth in this subparagraph within 30 months of availability shall revert to the Self-Help Housing Fund created by Section 50697.1 and shall be available for the purposes described in subparagraph (D).

(G) One hundred twenty-five million dollars ($125,000,000) shall be transferred to the Building Equity and Growth in Neighborhoods Fund to be used for the Building Equity and Growth in Neighborhoods (BEGIN) Program pursuant to Chapter 14.5 (commencing with Section 50860) of Part 1. Any funds not encumbered for the purposes set forth in this subparagraph within 30 months of availability shall revert for general use in the CalHome Program.

(H) Fifty million dollars ($50,000,000) shall be transferred to the Emergency Housing and Assistance Fund to be distributed in the form of capital development grants under the Emergency Housing and Assistance Program authorized by Chapter 11.5

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(commencing with Section 50800) of Part 2 of Division 31. The funds shall be administered by the Department of Housing and Community Development in a manner consistent with the restrictions and authorizations contained in Provision 3 of Item 2240-105-0001 of the Budget Act of 2000, except that any appropriations in that item shall not apply. The competitive system used by the department shall incorporate priorities set by the designated local boards and their input as to the relative merits of submitted applications from within the designated local board's county in relation to those priorities. In addition, the funding limitations contained in this section shall not apply to the appropriation in that budget item.

(2) The Legislature may, from time to time, amend the provisions of law related to programs to which funds are, or have been, allocated pursuant to this subdivision for the purpose of improving the efficiency and effectiveness of the program, or for the purpose of furthering the goals of the program.

(3) The Bureau of State Audits shall conduct periodic audits to ensure that bond proceeds are awarded in a timely fashion and in a manner consistent with the requirements of this subdivision, and that awardees of bond proceeds are using funds in compliance with applicable provisions of this subdivision. The first audit shall be conducted no later than one year from voter approval of this part.

(4) In its annual report to the Legislature, the Department of Housing and Community Development shall report how funds that were made available pursuant to this subdivision and allocated in the prior year were expended. The department shall make the report available to the public on its Internet Web site.

(b) Eight hundred fifty million dollars ($850,000,000) shall be deposited in the Regional Planning, Housing, and Infill Incentive Account, which is hereby created in the fund. Funds in the account shall be available, upon appropriation by the Legislature, and subject to such other conditions and criteria as the Legislature may provide in statute, for the following purposes:

(1) For infill incentive grants for capital outlay related to infill housing development and other related infill development, including, but not limited to, all of the following:

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(A) No more than two hundred million dollars ($200,000,000) for park creation, development, or rehabilitation to encourage infill development.

(B) Water, sewer, or other public infrastructure costs associated with infill development.

(C) Transportation improvements related to infill development projects.

(D) Traffic mitigation.

(2) For brownfield cleanup that promotes infill housing development and other related infill development consistent with regional and local plans.

(c) Three hundred million dollars ($300,000,000) to be deposited in the Transit-Oriented Development Account, which is hereby created in the fund, for transfer to the Transit-Oriented Development Implementation Fund, for expenditure, upon appropriation by the Legislature, pursuant to the Transit-Oriented Development Implementation Program authorized by Part 13 (commencing with Section 50560).

(d) Two hundred million dollars ($200,000,000) shall be deposited in the Housing Urban-Suburban-and-Rural Parks Account, which is hereby created in the fund. Funds in the account shall be available upon appropriation by the Legislature for housing-related parks grants in urban, suburban, and rural areas, subject to the conditions and criteria that the Legislature may provide in statute.

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CHAPTER 3. FISCAL PROVISIONS

53546. Bonds in the total amount of two billion eight hundred fifty million dollars ($2,850,000,000), exclusive of refunding bonds, or so much thereof as is necessary, are hereby authorized to be issued and sold for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. All bonds herein authorized which have been duly sold and delivered as provided herein shall constitute valid and legally binding general obligations of the state, and the full faith and credit of the state is hereby pledged for the punctual payment of both principal and interest thereof.

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53547. The bonds authorized by this part shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4), except subdivision (a) of Section 16727 to the extent that it is inconsistent with this part, and all of the other provisions of that law as amended from time to time apply to the bonds and to this part and are hereby incorporated in this part as though set forth in full in this part.

53548. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this part, the Housing Finance Committee created pursuant to Section 53524 is continued in existence. For the purposes of this part, the Housing Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law.

(b) The committee may adopt guidelines establishing requirements for administration of its financing programs to the extent necessary to protect the validity of, and tax exemption for, interest on the bonds. The guidelines shall not constitute rules, regulations, orders, or standards of general application and are not subject to Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

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(c) For the purposes of the State General Obligation Bond Law, the Department of Housing and Community Development is designated the "board" for programs administered by the department, and the California Housing Finance Agency is the "board" for programs administered by the agency.

53549. Upon request of the board stating that funds are needed for purposes of this part, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this part in order to carry out the actions specified in Section 53545, and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and are not required to be sold at any one time. Bonds may bear interest subject to federal income tax.

53550. There shall be collected annually, in the same manner and at the same time as other state revenue is collected, a sum of money in addition to the ordinary revenues of the state, sufficient to pay the principal of, and interest on, the bonds as provided

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herein, and all officers required by law to perform any duty in regard to the collections of state revenues shall collect that additional sum.

53551. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this part, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this part, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out Section 53553, appropriated without regard to fiscal years.

53552. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of this part. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this part, less any amount withdrawn pursuant to Section 53553. The board shall execute any documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated in accordance with this part.

53553. For the purpose of carrying out this part, the Director of Finance may, by executive order, authorize the withdrawal from the General Fund of any amount or amounts not to exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of carrying out this part. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds which would otherwise be deposited in that fund.

53554. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the electors of this act shall constitute approval of any refunding bonds issued pursuant to the State General Obligation Bond Law.

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53555. Notwithstanding any provisions in the State General Obligation Bond Law, the maximum maturity of any bonds authorized by this part shall not exceed 30 years from the date of each respective series. The maturity of each series shall be calculated from the date of each series.

53556. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this part are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

53557. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this part that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, the Treasurer may maintain a separate account for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

53558. All money derived from premium and accrued interest on bonds sold pursuant to this chapter shall be transferred to the General Fund as a credit to expenditures for bond interest.

~~SEC. 3. Part 13 (commencing with Section 53560) is added to Division 31 of the Health and Safety Code, to read:~~

~~PART 13. TRANSIT-ORIENTED DEVELOPMENT IMPLEMENTATION PROGRAM~~

~~53560. There is hereby established the Transit-Oriented Development Implementation Program, to be administered by the Department of Housing and Community Development, to provide local assistance to cities, counties, cities and counties, transit agencies, and developers for the purpose of developing or facilitating the development of higher density uses within close proximity to transit stations that will increase public transit ridership.~~

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53561. (a) There is hereby created in the State Treasury the Transit-Oriented Development Implementation Fund.

(b) Interest on loans made from the fund shall be deposited in the fund.

(c) All interest, dividends, and pecuniary gains from investments or deposits of moneys in the fund shall accrue to the fund, notwithstanding Section 16305.7 of the Government Code. There shall be paid into the fund all of the following:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(2) Any moneys that the department receives in repayment of loans made from the fund, including any interest on loans made from the fund.

(3) Any other moneys that may be made available to the department for the purposes of this part from any other source.

53562. (a) To the extent that funds are available, the department shall make grants to cities, counties, cities and counties, or transit agencies for the provision of infrastructure necessary for the development of higher density uses within close proximity to a transit station, or to facilitate connections between that development and the station.

(b) To the extent that funds are available, the department shall make loans for the development and construction of a housing development project within close proximity to a transit station. To be eligible for a loan, at least 15 percent of the units in the proposed development shall be made available at an affordable rent or at an affordable housing cost to persons of very low or low income for at least 55 years. Developments assisted pursuant to this subdivision shall be on parcels at least a portion of which are located within one-quarter mile of a transit station. A housing development project may include a mixed-use development consisting of residential and nonresidential uses.

(c) As used in this part, "transit station" shall have the same meaning as defined in subdivision (b) of Section 65460.1 of the Government Code.

53563. (a) In ranking applications pursuant to this part, the department shall, among other criteria, consider the extent to which the project or development will increase public transit ridership and minimize automobile trips.

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(b) The department shall also grant bonus points to projects or developments that are in an area designated by the appropriate council of governments for infill development as part of a regional plan.

53564. (a) The department may use up to 5 percent of the funds appropriated for the purposes of this part for its costs in administering the programs authorized by this part.

(b) The department may administer the programs pursuant to guidelines that shall not be subject to the requirements of Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code.

~~SEC. 4. Section 2 of this act shall become operative upon the~~ adoption by the voters of the Housing and Emergency Shelter Trust Fund Act of 2006.

SEC. 5. Notwithstanding Sections 13115 and 13117 of the Elections Code, the following measures shall be placed on the ballot for the November 7, 2006, statewide general election in the following order:

(a) Senate Constitutional Amendment No. 7 of the 2005-06 Regular Session shall be placed first on the ballot and shall be designated as Proposition 1A.

(b) The Highway Safety, Traffic Reduction, Air Quality and Port Security Act of 2006 shall be placed second on the ballot and shall be designated as Proposition 1B.

(c) The Housing and Emergency Shelter Trust Fund Act of 2006 shall be placed third on the ballot and shall be designated as Proposition 1C.

(d) The Kindergarten-University Public Education Facilities Bond Act of 2006 shall be placed fourth on the ballot and shall be designated as Proposition 1D.

(e) The Disaster Preparedness and Flood Prevention Bond Act of 2006 shall be placed fifth on the ballot and shall be designated as Proposition 1E.

SEC. 6. (a) Notwithstanding any other provision of law, all ballots of the November 7, 2006, statewide general election shall have printed thereon and in a square thereof, exclusively, the words: "Housing and Emergency Shelter Trust Fund Act of 2006" and in the same square under those words, the following in 8-point type: "For the purpose of providing shelters for battered women and their children, clean and safe housing for low-income

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senior citizens; homeownership assistance for the disabled, military veterans, and working families; and repairs and accessibility improvements to apartment for families and disabled citizens, the state shall issue bonds totaling two billion eight hundred fifty thousand dollars ($2,850,000,000) paid from existing state funds at an average annual cost of _____ dollars ($_____) per year over the _____ year life of the bonds. Requires reporting and publication of annual independent audited reports showing use of funds, and limits administration and overhead costs. (The Attorney General shall fill in the blanks in this subdivision with the figures provided by the Legislative Analyst for the annual average cost of the bonds and the number of years required to retire the bonds.)"

Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(c) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the submission of Section 2 of this act to the voters at the November 7, 2006, statewide general election, and to implement other housing and related programs in a timely manner, it is necessary that this act take effect immediately.

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FILED
in the office of the Secretary of State
of the State of California

MAY 17 2006

At 4:25 O'clock P M.
BRUCE McPHERSON, Secretary of State
By _____
Deputy Secretary of State

Approved MAY 17 2006, 2006

_____
Governor

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TEXT OF PROPOSITION 1D

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PROP. 1D

SD
JA
MJK
OD

35 127 5 6

This law proposed by Assembly Bill 16 of the 2001–2002 Regular Session (Chapter 33, Statutes of 2002) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution. 6

This proposed law adds sections to the Education Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

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A

ch. 35
(u)

Assembly Bill No. 127

Passed the Assembly May 5, 2006

Chief Clerk of the Assembly

Passed the Senate May 4, 2006

Secretary of the Senate

This bill was received by the Governor this 9 day of May, 2006, at 4:00 o'clock P. M.

Private Secretary of the Governor

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CHAPTER 35(a)

An act to amend Sections 17070.40, 17072.35, 17075.10, 17078.52, 17078.53, 17078.54, 17078.56, 17078.58, 17261, and 81130.3 of, to add Sections 17070.96, 17072.11, and 81052 to, to add Article 13 (commencing with Section 17078.70) and Article 14 (commencing with Section 17079) to Chapter 12.5 of Part 10 of, and to add Part 69 (commencing with Section 101000) to, the Education Code, to amend Section 65997 of the Government Code, to amend Section 4 of Chapter 421 of the Statutes of 2001, and to amend Section 4 of Chapter 637 of the Statutes of 2002, relating to education facilities, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 127, Nunez. Education facilities: Kindergarten-University Public Education Facilities Bond Act of 2006.

(1) Existing law, the California Constitution, prohibits the Legislature from creating a debt or liability that singly or in the aggregate with any previous debts or liabilities exceeds the sum of $300,000, except by an act that (a) authorizes the debt for a single object or work specified in the act, (b) has been passed by a ⅔ vote of all the members elected to each house of the Legislature, (c) has been submitted to the people at a statewide general or primary election, and (d) has received a majority of all the votes cast for and against it at that election.

Existing law, the Leroy F. Greene School Facilities Act of 1998, requires the State Allocation Board to allocate to applicant school districts, prescribed per-unhoused-pupil state funding for construction and modernization of school facilities, including hardship funding, and supplemental funding for site development and acquisition.

This bill would enact the Kindergarten-University Public Education Facilities Bond Act of 2006 to authorize $10,416,000,000 of state general obligation bonds to provide aid

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to school districts, county superintendents of schools, county boards of education, the California Community Colleges, the University of California, the Hastings College of the Law, and the California State University to construct and modernize education facilities.

The bond act would become operative only if approved by the voters at the November 7, 2006, statewide general election, and would provide for its submission to the voters at that election.

The bill would also submit to the voters for approval an authorization to use the proceeds of any bond act, approved on or before January 1, 2006, that are designated for joint-use facilities to be used for other related school facilities projects.

(2) This bill would specify that certain provisions of the bill shall become operative only if the Kindergarten-University Public Education Facilities Bond Act of 2006 is approved by the voters at the November 7, 2006, statewide general election.

(3) The bill would make conforming, technical changes in related provisions of existing law.

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

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

SECTION 1. Section 17070.40 of the Education Code is amended to read:

17070.40. (a) (1) A fund is hereby established in the State Treasury to be known as the 1998 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 1998 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 1998 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

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(4) The board may make disbursements pursuant to any apportionment made from any funds in the 1998 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 1998 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

(b) (1) A fund is hereby established in the State Treasury to be known as the 2002 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 2002 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 2002 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 2002 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2002 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

(c) (1) A fund is hereby established in the State Treasury to be known as the 2004 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 2004 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 2004 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

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(4) The board may make disbursements pursuant to any apportionment made from any funds in the 2004 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2004 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

(d) (1) A fund is hereby established in the State Treasury, to be known as the 2006 State School Facilities Fund. All money in the fund, including any money deposited in that fund from any source whatsoever, and notwithstanding Section 13340 of the Government Code, is hereby continuously appropriated without regard to fiscal years for expenditure pursuant to this chapter.

(2) The board may apportion funds to school districts for the purposes of this chapter from funds transferred to the 2006 State School Facilities Fund from any source.

(3) The board may make apportionments in amounts not exceeding those funds on deposit in the 2006 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(4) The board may make disbursements pursuant to any apportionment made from any funds in the 2006 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2006 State School Facilities Fund sufficient to permit payment in full of all apportionments previously made. However, no disbursement shall be made from any funds required by law to be transferred to the General Fund.

SEC. 2. Section 17070.96 is added to the Education Code, to read:

17070.96. As part of its application for funding under this chapter, a school district shall certify that it has considered the feasibility of using designs and materials for the construction or modernization project that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

SEC. 3. Section 17072.11 is added to the Education Code, to read:

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17072.11. (a) All of the following shall apply on and after July 1, 2006, until January 1, 2008:

(1) The per-unhoused-pupil grant eligibility determined under paragraphs (1) and (2) of subdivision (a) of Section 17072.10 shall be increased by 7 percent.

(2) The per-unhoused-pupil grant eligibility determined under paragraph (3) of subdivision (a) of Section 17072.10 shall be increased by 4 percent.

(3) The board shall conduct an analysis of the relationship between the per-unhoused-pupil grant eligibility determined under this article and the per-pupil cost of new school construction for elementary, middle, and high school pupils.

(b) On or after January 1, 2008, the board shall increase or decrease the per-unhoused-pupil grant eligibility by amounts it deems necessary to cause the grants to correspond to costs of new school construction, provided that the increase in any fiscal year pursuant to this section shall not exceed 6 percent.

SEC. 4. Section 17072.35 of the Education Code is amended to read:

17072.35. A grant for new construction may be used for any and all costs necessary to adequately house new pupils in any approved project, and those costs may only include the cost of design, engineering, testing, inspection, plan checking, construction management, site acquisition and development, evaluation and response action costs relating to hazardous substances at a new or existing schoolsite, demolition, construction, acquisition and installation of portable classrooms, landscaping, necessary utility costs, utility connections and other fees, equipment including telecommunication equipment to increase school security, furnishings, and the upgrading of electrical systems or the wiring or cabling of classrooms in order to accommodate educational technology. A grant for new construction may also be used to acquire an existing government or privately owned building, or a privately financed school building, and for the necessary costs of converting the government or privately owned building for public school use. A grant for new construction may also be used for the costs of designs and materials that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a

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minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

SEC. 5. Section 17075.10 of the Education Code is amended to read:

17075.10. (a) A school district may apply for hardship assistance in cases of extraordinary circumstances. Extraordinary circumstances may include, but are not limited to, the need to repair, reconstruct, or replace the most vulnerable school facilities that are a Category 2 building, as defined in the report submitted pursuant to Section 17317, determined by the department to pose an unacceptable risk of injury to its occupants in the event of a seismic event.

(b) A school district applying for hardship state funding under this article shall comply with either paragraph (1) or (2).

(1) Demonstrate both of the following:

(A) That due to extreme financial, disaster-related, or other hardship the school district has unmet need for pupil housing.

(B) That the school district is not financially capable of providing the matching funds otherwise required for state participation, that the district has made all reasonable efforts to impose all levels of local debt capacity and development fees, and that the school district is, therefore, unable to participate in the program pursuant to this chapter except as set forth in this article.

(2) Demonstrate that due to unusual circumstances that are beyond the control of the district, excessive costs need to be incurred in the construction of school facilities. Funds for the purpose of seismic mitigation work or facility replacement pursuant to this section shall be allocated by the board on a 50 percent state share basis from any funds reserved for that purpose in any bond approved by the voters after January 1, 2006. If the board determines that the seismic mitigation work of a school building would require funding that is greater than 50 percent of the funds required to construct a new facility, the school district shall be eligible for funding to construct a new facility under this chapter.

(c) The board shall review the increased costs that may be uniquely associated with urban construction and shall adjust the per-pupil grant for new construction or modernization hardship

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applications as necessary to accommodate those costs. The board shall adopt regulations setting forth the standards, methodology, and a schedule of allowable adjustments, for the urban adjustment factor established pursuant to this subdivision.

SEC. 6. Section 17078.52 of the Education Code is amended to read:

17078.52. (a) There is hereby established the Charter Schools Facilities Program to provide funding to qualifying entities for the purpose of establishing school facilities for charter school pupils.

(b) (1) The 2002 Charter School Facilities Account is hereby established within the 2002 State School Facilities Fund established pursuant to subdivision (b) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100620, shall be deposited into the 2002 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(2) The 2004 Charter School Facilities Account is hereby established within the 2004 State School Facilities Fund established pursuant to subdivision (c) of Section 17070.40. The proceeds of bonds, as set forth in subparagraph (A) of paragraph (1) of subdivision (a) of Section 100820, if approved by the voters, shall be deposited into the 2004 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(3) The 2006 Charter School Facilities Account is hereby established within the 2006 State School Facilities Fund established pursuant to subdivision (d) of Section 17070.40. The proceeds of bonds, as set forth in paragraph (2) of subdivision (a) of Section 101012, if approved by the voters, shall be deposited into the 2006 Charter School Facilities Account for the purposes of this article. Notwithstanding Section 13340 of the Government Code, funds deposited into the account are hereby continuously appropriated for the purposes of this article.

(c) As used in this article, the following terms have the following meanings:

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(1) "Authority" means the California School Finance Authority established pursuant to Section 17172.

(2) "Account" means the pertinent account established under subdivision (b).

(3) "Preliminary apportionment" means an apportionment made for eligible applicants under this article in advance of full compliance with all of the application requirements otherwise required for an apportionment pursuant to this chapter. The process for making preliminary apportionments under this article shall be substantially identical to the process established for critically overcrowded schools pursuant to Sections 17078.22 to 17078.30, inclusive.

(4) "Financially sound" means a charter school that has demonstrated, over a period of time determined by the authority, but not less than 24 months immediately preceding the submission of the application, that it has operated as a financially capable concern in California, as measured by criteria established by the authority. A charter school that cannot demonstrate that it has been a financially capable concern for at least 24 months immediately preceding the submission of the application, due solely to not having operated as a charter school for at least 24 months, may meet this 24-month requirement if the charter school is managed by staff who have at least 24 months of documented experience, as measured by criteria established by the authority and the charter school has an educational plan, financial resources, facilities expertise, management expertise, and has been a financially capable concern for at least 24 months, as established by the authority.

(d) The board shall, from time to time, transfer funds within the account to the California School Finance Authority Fund for the purposes of this article pursuant to the request of the authority as set forth in this article.

SEC. 7. Section 17078.53 of the Education Code is amended to read:

17078.53. (a) The initial preliminary applications for projects to be funded pursuant to this article shall be submitted to the board by March 31, 2003.Thereafter, the board may establish subsequent application periods as needed.

(b) Preliminary applications may be submitted by eligible applicants as set forth in this article by either of the following:

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(1) A school district on behalf of a charter school that is physically located within the geographical jurisdiction of the school district.

(2) A charter school on its own behalf if the charter school has notified both the superintendent and the governing board of the school district in which it is physically located of its intent to do so in writing at least 30 days prior to submission of the preliminary application.

(c) A preliminary application shall demonstrate either of the following:

(1) That a charter petition for the school for which the application is submitted has been granted by the appropriate chartering entity prior to the application deadline determined by the board.

(2) That an already existing charter has been amended to include the school for which the application is submitted and approved by the appropriate chartering entity prior to the deadline determined by the board.

(d) A preliminary application shall include either of the following:

(1) For a preliminary application submitted pursuant to paragraph (1) of subdivision (b), the number of unhoused pupils determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(2) For a preliminary application submitted pursuant to paragraph (2) of subdivision (b), a certification from the governing board of the district within which the charter school is physically located of the number of unhoused pupils for that district determined pursuant to Article 3 (commencing with Section 17071.75) that will be housed by the project for which the preliminary application has been submitted.

(e) Prior to submitting a preliminary application, the school district and charter school shall consider existing school district facilities in accordance with Section 47614.

(f) The board, after consideration of the recommendations of the authority regarding whether a charter school is financially sound, shall approve the preliminary application and shall make the preliminary apportionment for funding pursuant to this article.

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(g) (1) The board shall establish a process to ensure that pupil attendance in a charter school that is physically located within the geographical jurisdiction of a school district is counted as per-pupil eligibility for that school district and to ensure that the same per-pupil attendance is not so counted for any other school district or other applicant under this chapter.

(2) (A) Except as provided pursuant to subparagraph (B) and notwithstanding subdivision (b) of Section 17071.75, the number of pupils for which facilities are provided under this article shall not be included in the sum determined under subdivision (b) of Section 17071.75.

(B) The number of unhoused pupils determined pursuant to subdivision (d) that will be housed by the project for which a preliminary application has been submitted shall be included in the sum determined under subdivision (b) of Section 17071.75.

(h) The board shall establish a process to be used for release of funds for approved projects pursuant to this article. Notwithstanding Section 17072.30, the board may provide for the release of planning and site acquisition funds prior to the approval of the project by the Department of General Services pursuant to the Field Act, as defined in Section 17281.

SEC. 8. Section 17078.54 of the Education Code is amended to read:

17078.54. (a) An eligible project under this article shall include funding, as permitted by this chapter, for new construction or rehabilitation of a school facility for charter school pupils, as set forth in this article. A project may include, but is not limited to, the cost of retrofitting an existing building for charter school purposes, purchasing a building, or retrofitting a building that has been purchased by the charter school, if those costs have not been previously funded under this chapter, but may not exceed the amounts set forth in subdivision (b). Existing school buildings made available by a school district that will be rehabilitated for the purposes of this article are not subject to Article 6 (commencing with Section 17073.10). An allocation of funds shall not be made for a school facility that is less than 15 years old.

(b) The maximum amount of the funding pursuant to this article shall be determined by calculating the charter school's per-pupil grant amount plus other allowable costs as set forth in

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this chapter. Funding shall be provided by the authority for new facility construction or rehabilitation as set forth in Section 17078.58.

(c) To be funded under this article, a project shall comply with all of the following:

(1) It shall meet all the requirements regarding public school construction, plan approvals, toxic substance review, site selection, and site approval, as would any noncharter school project of a school district under this chapter, including, but not limited to, regulations adopted by the State Architect pursuant to Section 17280.5 relating to the retrofitting of existing buildings, as applicable.

(2) Notwithstanding any provision of law to the contrary, including, but not limited to paragraph (1), the board, after consulting with the relevant regulatory agencies, shall, to the extent feasible, adopt regulations establishing a process for projects to be subject to a streamlined method for obtaining regulatory approvals for all requirements described in paragraph (1), except for the requirements of the Field Act as defined in Section 17281 which shall be complied with in the same manner as any other project under this chapter.

(3) The board shall fund only new construction to be physically located within the geographical jurisdiction of a school district.

(d) Facilities funded pursuant to this article shall have a 50 percent local share matching obligation that may be paid by the applicant through lease payments in lieu of the matching share, or as otherwise set forth in this article, including, but not limited to, Section 17078.58.

(e) The authority may charge its administrative costs against the respective 2002, 2004, or 2006 Charter School Facilities Account, which shall be subject to the approval of the Department of Finance and which may not exceed 2.5 percent of the account.

SEC. 9. Section 17078.56 of the Education Code is amended to read:

17078.56. (a) The board, in consultation with the authority, shall approve projects pursuant to this article as otherwise set forth in this chapter, and shall make preliminary apportionments

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only to financially sound applicants in accordance with all of the following criteria:

(1) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various geographical regions of the state.

(2) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of urban, rural, and suburban regions of the state.

(3) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of large, medium, and small charter schools throughout the state.

(4) The board shall seek to ensure that, when considered as a whole, the applications approved pursuant to this article are fairly representative of the various grade levels of pupils served by charter school applicants throughout the state.

(b) While ensuring that the requirements of subdivision (a) are met when considering all approved projects under this article as a whole, the board shall, within each factor of the criteria set forth in subdivision (a), give a preference to charter schools in overcrowded school districts, charter schools in low-income areas, charter schools operated by not-for-profit entities, and charter schools that utilize existing school district facilities.

SEC. 10. Section 17078.58 of the Education Code is amended to read:

17078.58. (a) Funding granted pursuant to this article may not exceed 100 percent of the total allowable project costs as determined by calculating double the per-pupil grant eligibility as set forth in Section 17072.10, and subdivision (e) of Section 17078.53, plus 100 percent of all other allowable construction project costs, as appropriate to the project, that would otherwise be available to school district projects as set forth in this chapter. Funding granted for the purposes of rehabilitating buildings under Section 17078.54 shall be limited to the costs necessary to comply with subdivision (c) of Section 17078.54, and shall not exceed the maximum costs that would otherwise be allowable for a new construction project funded under this article.

(b) The local share equivalent shall be collected in the form of lease payments or otherwise as set forth in this article.

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(c) Lease payments in lieu of local share payments, and any other local share payments made pursuant to this article, shall be made to the board for deposit into the respective 2002, 2004, or 2006 Charter School Facilities Account. Funds deposited into the account pursuant to this section may be used by the board only for a purpose related to charter school facilities pursuant to this article.

(d) When a preliminary apportionment under this article is converted to a final apportionment, any funds not needed for the final apportionment shall remain in the 2002, 2004, or 2006 Charter School Facilities Account for use by the board for any purpose related to charter school facilities pursuant to this article.

SEC. 11. Article 13 (commencing with Section 17078.70) is added to Chapter 12.5 of Part 10 of the Education Code, to read:

Article 13. Career Technical Education Facilities Program

17078.70. (a) For the purposes of this article, "reconfiguration" means any modification of a structure of any age that will enhance the educational opportunities for pupils in existing middle and high schools in order to provide them with the skills and knowledge necessary for high-demand technical careers.

(b) "Reconfiguration" may include limited new construction necessary to accommodate the reconfiguration.

17078.72. (a) The Career Technical Education Facilities Program is hereby established to provide funding to qualifying local educational agencies for the purpose of constructing new facilities or reconfiguring existing facilities, including, but not limited to, purchasing equipment with an average useful life expectancy of at least 10 years, to enhance educational opportunities for pupils in existing high schools in order to provide them with the skills and knowledge necessary for the high-demand technical careers of today and tomorrow.

(b) The State Department of Education, in cooperation with the Chancellor's Office of the Community Colleges, the Labor and Workforce Development Agency, and industry groups, shall develop criteria and pupil outcome measures to evaluate the program. The criteria shall ensure equity, program relevance to

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industry needs, and articulation with more advanced coursework at the partnering community colleges or private institutions.

(c) The program shall be based on grant applications administered by the board.

(d) Grants shall be allocated on a per-square-foot basis for the applicable type of construction proposed or deemed necessary by the board consistent with the approved application for the project.

(e) New construction grants shall not exceed three million dollars ($3,000,000) per project per schoolsite, inclusive of equipment, and shall only be allocated to comprehensive high schools that have an active Career Technical Advisory Committee pursuant to Section 8070, in either of the following methods:

(1) For a stand-alone project on a per-square-foot basis for the applicable type of construction proposed, based on the criteria established pursuant to subdivision (b), consistent with the approved application for the project.

(2) For new school projects, as a supplement to the per pupil allocation pursuant to Section 17072.10. The supplement is intended to cover excess costs uniquely related to the facilities required to provide the career technical education program or programs.

(f) Modernization grants shall not exceed one million five hundred thousand dollars ($1,500,000) per project per schoolsite, inclusive of equipment and may be awarded to comprehensive high schools or joint power authorities currently operating career technical education programs that have an active Career Technical Advisory Committee pursuant to Section 8070 for the purpose of reconfiguration. For comprehensive high schools, the grant shall be supplemental to the per pupil allocation pursuant to Section 17074.10. The supplement is intended to cover excess costs uniquely related to the facilities required to provide the career technical education program or programs.

(g) (1) A school district shall contribute from local resources a dollar amount that is equal to the amount of the grant of state funds awarded under subdivisions (d), (e), and (f). The local contribution may be provided by private industry groups, the school district, or a joint powers authority.

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(2) A school district shall not be required to demonstrate that it has unhoused pupils or that a permanent school building is more than 25 years old in order to receive a grant under the program.

(h) The program shall allow the local contribution to be paid over time should sufficient local funds not be immediately available. The board may provide for a repayment schedule consistent with subparagraphs (C) and (D) of paragraph (1) of subdivision (a) of Section 17078.57. The board shall not waive the local contribution on the basis of financial hardship or on any other basis.

(i) Applications shall meet the criteria developed under subdivision (b) and shall require all of the following:

(1) A clear and comprehensive Career Technical Education plan for each course of study applicable to the instructional space.

(2) Projections of pupil enrollment.

(3) Identification of feeder schools, industry partners, and community colleges or other postsecondary schools participating in the development, articulation, and review of the educational program.

(4) Evidence of approval of the plan by the entities listed in paragraph (3).

(5) The method by which accountability for pupil enrollments and outcomes will be maintained. Outcomes shall include, but are not limited to, certificate completion, the successful entry of pupil to employment in the applicable industry, and successful transition to post-secondary institutions for work in the applicable industry or other areas of study.

(6) Evidence of coordination with all feeder schools, middle schools, and high schools within the area to ensure that the project and programs complement career technical education offerings in the area.

(7) Evidence that upon completion of the project the local educational agency will meet all of its obligations under Section 51228 relating to career technical education.

(j) Applications shall give weight to the number of pupils expected to attend, the cost per pupil, financial participation by industry partners in the construction and equipping of the facility, commitment to accountability for outcomes and participation, the strength and relevance of the educational plans to the needs of

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industry for qualified technical employees applicable to the economic development needs of the region in which the project will be located, and coordination and articulation with feeder schools, other high schools, and community colleges.

(k) The Office of Public School Construction shall develop and the board shall approve regulations to implement this article on or before April 19, 2007, and the board may promulgate those regulations first on an emergency basis, which shall be effective for no more than 12 months, after which any permanent regulations shall be promulgated in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

SEC. 12. Article 14 (commencing with Section 17079) is added to Chapter 12.5 of Part 10 of the Education Code, to read:

Article 14. Overcrowding Relief Grants

17079. (a) For purposes of this article, an eligible school is a school for which the schoolsite pupil population density is equal to or greater than 175 percent of the schoolsite pupil population density recommended by the Superintendent as of January 1, 2006, adjusted by the following factors:

(1) The density calculation shall be reduced to take into account the additional pupil capacity created by multistory construction.

(2) The schoolsite pupil population density shall be reduced to take into account approved new construction projects, including projects approved pursuant to Article 11 (commencing with Section 17078.10).

(b) The board shall adopt regulations to determine the adjustments set forth in paragraphs (1) and (2) of subdivision (a).

17079.10. (a) For purposes of this article, an eligible pupil is a pupil who is housed in a portable classroom, except portable classrooms used for purposes of the Class Size Reduction Program set forth in Chapter 6.10 (commencing with Section 52120) of Part 28, at an eligible school.

(b) The board shall apportion an overcrowding relief grant to districts on behalf of each eligible pupil equal to the appropriate per-unhoused-pupil grant amount pursuant to Section 17072.10.

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The number of overcrowding relief grants apportioned shall be subject to the following limitations:

(1) The number of grants apportioned on behalf of an eligible school shall not exceed the number of pupils whose removal from the pupil density calculation would reduce the density of the eligible schoolsite to 150 percent of the schoolsite pupil population density recommended by the Superintendent as of January 1, 2006.

(2) A district shall not receive more grants than the number of pupils housed in portable classrooms that were included in the initial new construction eligibility determination of the district pursuant to Article 3 (commencing with Section 17071.75).

17079.20. (a) The board shall require that applications for funding pursuant to this article be used for an equivalent number of permanent new school construction classrooms to replace the portable classrooms upon which the determination of the number of eligible pupils is based. The board shall also require the application to describe how the project will relieve overcrowding at the eligible school.

(b) The board shall create a list of projects eligible for funding and shall approve applications semiannually on a schedule determined by the board.

(c) The board shall require that applicant school districts comply with all of the same conditions otherwise required for new construction funding pursuant to this chapter with the exception of subdivision (b) of Section 17071.75.

(d) The board shall not apportion funds for a project pursuant to this article any portion of which involves the construction, acquisition, or transportation of portable classrooms for any school in the school district.

(e) In the event the funding available to the board for purposes of this article is less than the amount necessary to fund all eligible applications, the board shall prioritize and fund the projects on the basis of the pupil density of the eligible schools.

17079.30. (a) The board shall require both of the following as conditions for receiving funding pursuant to this article:

(1) Within six months after the date of initial occupancy of the permanent school facilities constructed pursuant to this article, the school district shall remove from the eligible school, and

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remove from service as classrooms in the district, the portable classrooms used for determining the number of eligible pupils.

(2) The new school construction funding provided pursuant to this article shall result in a reduction in the total number of portable classrooms in the school district.

(b) This section does not preclude the school district from using the portable classrooms removed from eligible schools for child care or preschool programs, if those portable classrooms are not located at an eligible school.

(c) This section does not apply to eligible schools operating on double session schedules in an elementary school district in a county of the second class, as set forth in Section 28023 of the Government Code.

SEC. 13. Section 17261 of the Education Code is amended to read:

17261. The State Allocation Board shall obtain construction plans for school buildings appropriate for school districts in various climates and geographical conditions of the state. The plans shall be composed of plans designed to meet the needs of school districts requiring school buildings of various sizes. The plans may include landscape suggestions. The plans may include designs that promote the efficient use of energy and water, the maximum use of natural lighting and indoor air quality, the use of recycled materials and materials that emit a minimum of toxic substances, the use of acoustics conducive to teaching and learning, and other characteristics of high performance schools.

SEC. 14. Section 81052 is added to the Education Code, to read:

81052. Each school building constructed, reconstructed, modified, or expanded after July 1, 2006, on a community college campus shall be built according to the Field Act, as defined in Section 81130.3, or according to the California Building Standards Code, as adopted by the California Building Standards Commission.

SEC. 15. Section 81130.3 of the Education Code is amended to read:

81130.3. This article, together with Article 3 (commencing with Section 17280) and Article 6 (commencing with Section 17365) of Chapter 3 of Part 10.5 and Article 3 (commencing with

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Section 81050), shall be known and may be cited as the "Field Act."

SEC. 16. Part 69 (commencing with Section 101000) is added to the Education Code, to read:

PART 69. KINDERGARTEN-UNIVERSITY PUBLIC EDUCATION FACILITIES BOND ACT OF 2006

CHAPTER 1. GENERAL

101000. This part shall be known and may be cited as the Kindergarten-University Public Education Facilities Bond Act of 2006.

101001. The incorporation of, or reference to, any provision of California statutory law in this part includes all acts amendatory thereof and supplementary thereto.

101002. (a) Bonds in the total amount of ten billion four hundred sixteen million dollars ($10,416,000,000), not including the amount of any refunding bonds issued in accordance with Sections 101030, 101039, and 101059, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this part and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established by Section 15909 or the Higher Education Facilities Finance Committee established pursuant to Section 67353, as the case may be, at any different times necessary to service expenditures required by the apportionments.

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CHAPTER 2. KINDERGARTEN THROUGH 12TH GRADE

Article 1. Kindergarten Through 12th Grade School Facilities Program Provisions

101010. The proceeds of bonds issued and sold pursuant to Article 2 (commencing with Section 101020) shall be deposited in the 2006 State School Facilities Fund established in the State Treasury under subdivision (d) of Section 17070.40 and shall be allocated by the State Allocation Board pursuant to this chapter.

101011. All moneys deposited in the 2006 State School Facilities Fund for the purposes of this chapter shall be available to provide aid to school districts, county superintendents of schools, and county boards of education of the state in accordance with the Leroy F. Greene School Facilities Act of 1998 (Chapter 12.5 (commencing with Section 17070.10) of Part 10), as set forth in Section 101012, to provide funds to repay any money advanced or loaned to the 2006 State School Facilities Fund under any act of the Legislature, together with interest provided for in that act, and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code.

101012. (a) The proceeds from the sale of bonds, issued and sold for the purposes of this chapter, shall be allocated in accordance with the following schedule:

(1) The amount of one billion nine hundred million dollars ($1,900,000,000) for new construction of school facilities of applicant school districts under Chapter 12.5 (commencing with Section 17070.10) of Part 10. Of the amount allocated under this paragraph, up to 10.5 percent shall be available for purposes of seismic repair, reconstruction, or replacement, pursuant to Section 17075.10.

(2) The amount of five hundred million dollars ($500,000,000) shall be available for providing school facilities to charter schools pursuant to Article 12 (commencing with Section 17078.52) of Chapter 12.5 of Part 10.

(3) The amount of three billion three hundred million dollars ($3,300,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

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(4) The amount of five hundred million dollars ($500,000,000) for the purposes set forth in Article 13 (commencing with Section 17078.70) of Chapter 12.5 of Part 10, relating to facilities for career technical education programs.

(5) Of the amounts allocated under paragraphs (1) and (3), up to two hundred million dollars ($200,000,000) for the purposes set forth in Chapter 894 of the Statutes of 2004, relating to incentives for the creation of smaller learning communities and small high schools.

(6) The amount of twenty-nine million dollars ($29,000,000) for the purposes set forth in Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10, relating to joint use projects.

(7) The amount of one billion dollars ($1,000,000,000) shall be available for providing new construction funding to severely overcrowded schoolsites pursuant to Article 14 (commencing with Section 17079) of Chapter 12.5 of Part 10.

(8) The amount of one hundred million dollars ($100,000,000) for incentive grants to promote the use of designs and materials in new construction and modernization projects that include the attributes of high-performance schools, including, but not limited to, the elements set forth in Section 17070.96, pursuant to regulations adopted by the State Allocation Board.

(b) School districts may use funds allocated pursuant to paragraph (3) of subdivision (a) only for one or more of the following purposes in accordance with Chapter 12.5 (commencing with Section 17070.10) of Part 10:

(1) The purchase and installation of air-conditioning equipment and insulation materials, and related costs.

(2) Construction projects or the purchase of furniture or equipment designed to increase school security or playground safety.

(3) The identification, assessment, or abatement in school facilities of hazardous asbestos.

(4) Project funding for high-priority roof replacement projects.

(5) Any other modernization of facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10.

(c) Funds allocated pursuant to paragraph (1) of subdivision (a) may also be utilized to provide new construction grants for eligible applicant county boards of education under Chapter 12.5

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(commencing with Section 17070.10) of Part 10 for funding classrooms for severely handicapped pupils, or for funding classrooms for county community school pupils.

(d) (1) The Legislature may amend this section to adjust the funding amounts specified in paragraphs (1) to (8), inclusive, of subdivision (a), only by either of the following methods:

(A) By a statute, passed in each house of the Legislature by rollcall vote entered in the respective journals, by not less than two-thirds of the membership in each house concurring, if the statute is consistent with, and furthers the purposes of, this chapter.

(B) By a statute that becomes effective only when approved by the voters.

(2) Amendments pursuant to this subdivision may adjust the amounts to be expended pursuant to paragraphs (1) to (8), inclusive, of subdivision (a), but may not increase or decrease the total amount to be expended pursuant to that subdivision.

(e) Funds available pursuant to this section may be used for acquisition of school facilities authorized pursuant to Section 17280.5.

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Article 2. Kindergarten Through 12th Grade School Facilities Fiscal Provisions

101020. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 101000), bonds in the amount of seven billion three hundred twenty-nine million dollars ($7,329,000,000) not including the amount of any refunding bonds issued in accordance with Section 101030, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

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(b) Pursuant to this section, the Treasurer shall sell the bonds authorized by the State School Building Finance Committee established pursuant to Section 15909 at any different times necessary to service expenditures required by the apportionments.

101021. The State School Building Finance Committee, established by Section 15909 and composed of the Governor, the Controller, the Treasurer, the Director of Finance, and the Superintendent, or their designated representatives, all of whom shall serve thereon without compensation, and a majority of whom shall constitute a quorum, is continued in existence for the purpose of this chapter. The Treasurer shall serve as chairperson of the committee. Two Members of the Senate appointed by the Senate Committee on Rules, and two Members of the Assembly appointed by the Speaker of the Assembly, shall meet with and provide advice to the committee to the extent that the advisory participation is not incompatible with their respective positions as Members of the Legislature. For the purposes of this chapter, the Members of the Legislature shall constitute an interim investigating committee on the subject of this chapter and, as that committee, shall have the powers granted to, and duties imposed upon, those committees by the Joint Rules of the Senate and the Assembly. The Director of Finance shall provide assistance to the committee as it may require. The Attorney General of the state is the legal adviser of the committee.

101022. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code to the extent that it conflicts with this part, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For purposes of the State General Obligation Bond Law, the State Allocation Board is designated the "board" for purposes of administering the 2006 State School Facilities Fund.

101023. (a) Upon request of the State Allocation Board, the State School Building Finance Committee shall determine whether or not it is necessary or desirable to issue bonds

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authorized pursuant to this chapter in order to fund the apportionments and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to fund those apportionments progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

(b) A request of the State Allocation Board pursuant to subdivision (a) shall be supported by a statement of the apportionments made and to be made for the purposes described in Sections 101011 and 101012.

101024. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act that is necessary to collect that additional sum.

101025. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 101028, appropriated without regard to fiscal years.

101026. The State Allocation Board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

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101027. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

101028. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the State School Building Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2006 State School Facilities Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

101029. All money deposited in the 2006 State School Facilities Fund, that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

101030. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

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101031. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

CHAPTER 3. CALIFORNIA COMMUNITY COLLEGE FACILITIES

Article 1. General

101032. (a) The 2006 California Community College Capital Outlay Bond Fund is hereby established in the State Treasury for deposit of funds from the proceeds of bonds issued and sold for the purposes of this chapter.

(b) The Higher Education Facilities Finance Committee established pursuant to Section 67353 is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of providing funds to aid the California Community Colleges.

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Article 2. California Community College Program Provisions

101033. (a) From the proceeds of bonds issued and sold pursuant to Article 3 (commencing with Section 101034), the sum of one billion five hundred seven million dollars ($1,507,000,000) shall be deposited in the 2006 California Community College Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California Community Colleges.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or

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reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California Community Colleges.

Article 3. California Community College Fiscal Provisions

101034. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 101000), bonds in the total amount of one billion five hundred seven million dollars ($1,507,000,000), not including the amount of any refunding bonds issued in accordance with Section 101039, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) It is the intent of the Legislature that the California Community Colleges annually consider, as part of their annual capital outlay planning process, the inclusion of facilities that may be used by more than one segment of public higher education (intersegmental), and, that on or before May 15th of each year, those entities report their findings to the budget committees of each house of the Legislature.

(c) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

101034.5. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law,

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except Section 16727 of the Government Code to the extent that it conflicts with this part, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 2006 Community College Capital Outlay Bond Fund is designated as the "board" for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the California Community Colleges for the construction on existing or new campuses, and their respective off-campus centers and joint use and intersegmental facilities, as set forth in this chapter.

101035. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

101035.5. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

101036. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

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(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 101037.5, appropriated without regard to fiscal years.

101036.5. The board, as defined in subdivision (b) of Section 101034.5, may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board, as defined in subdivision (b) of Section 101034.5, shall execute any documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

101037. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

101037.5. (a) For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the Higher Education Facilities Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2006 California Community College Capital Outlay Bond Fund consistent with this chapter. Any money made

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available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the California Community Colleges shall be accompanied by the five-year capital outlay plan that reflects the needs and priorities of the community college system and is prioritized on a statewide basis. Requests shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, in the judgment of the particular college, seismic hazards in buildings identified as high priority by the college.

101038. All money deposited in the 2006 California Community College Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

101039. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

101039.5. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

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CHAPTER 4. UNIVERSITY FACILITIES

Article 1. General

101040. (a) The system of public universities in this state includes the University of California, the Hastings College of the Law, and the California State University, and their respective off-campus centers.

(b) The 2006 University Capital Outlay Bond Fund is hereby established in the State Treasury for deposit of funds from the proceeds of bonds issued and sold for the purposes of this chapter.

(c) The Higher Education Facilities Finance Committee established pursuant to Section 67353 is hereby authorized to create a debt or debts, liability or liabilities, of the State of California pursuant to this chapter for the purpose of providing funds to aid the University of California, the Hastings College of the Law, and the California State University.

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Article 2. Program Provisions Applicable to the University of California and the Hastings College of the Law

101041. (a) From the proceeds of bonds issued and sold pursuant to Article 4 (commencing with Section 101050), the sum of eight hundred ninety million dollars ($890,000,000) shall be deposited in the 2006 University Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the University of California and the Hastings College of the Law.

(c) Of the amount made available under subdivision (a), the amount of two hundred million dollars ($200,000,000) shall be used for capital improvements that expand and enhance medical education programs with an emphasis on telemedicine aimed at developing high-tech approaches to health care.

(d) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that

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may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the University of California and the Hastings College of the Law.

Article 3. Program Provisions Applicable to the California State University

101042. (a) From the proceeds of bonds issued and sold pursuant to Article 4 (commencing with Section 101050), the sum of six hundred ninety million dollars ($690,000,000) shall be deposited in the 2006 University Capital Outlay Bond Fund for the purposes of this article. When appropriated, these funds shall be available for expenditure for the purposes of this article.

(b) The purposes of this article include assisting in meeting the capital outlay financing needs of the California State University.

(c) Proceeds from the sale of bonds issued and sold for the purposes of this article may be used to fund construction on existing campuses, including the construction of buildings and the acquisition of related fixtures, construction of facilities that may be used by more than one segment of public higher education (intersegmental), the renovation and reconstruction of facilities, site acquisition, the equipping of new, renovated, or reconstructed facilities, which equipment shall have an average useful life of 10 years; and to provide funds for the payment of preconstruction costs, including, but not limited to, preliminary plans and working drawings for facilities of the California State University.

Article 4. University Fiscal Provisions

101050. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 101000), bonds in the amount of one billion five hundred eighty million dollars ($1,580,000,000), not including the amount of any refunding bonds issued in accordance with Section 101059,

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or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of the principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) It is the intent of the Legislature that the University of California and the California State University annually consider, as part of their annual capital outlay planning process, the inclusion of facilities that may be used by more than one segment of public higher education (intersegmental), and, that on or before May 15th of each year, those entities report their findings to the budget committees of each house of the Legislature.

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(c) Pursuant to this section, the Treasurer shall sell the bonds authorized by the Higher Education Facilities Finance Committee established pursuant to Section 67353 at any different times necessary to service expenditures required by the apportionments.

101051. (a) The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law, except Section 16727 of the Government Code to the extent that it conflicts with this part, apply to the bonds and to this chapter and are hereby incorporated into this chapter as though set forth in full within this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 2006 University Capital Outlay Bond Fund is designated as the "board" for projects funded pursuant to this chapter.

(c) The proceeds of the bonds issued and sold pursuant to this chapter shall be available for the purpose of funding aid to the University of California, the Hastings College of the Law, and the California State University, for the construction on existing or new campuses, and their respective off-campus centers and joint use and intersegmental facilities, as set forth in this chapter.

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101052. The Higher Education Facilities Finance Committee established pursuant to Section 67353 shall authorize the issuance of bonds under this chapter only to the extent necessary to fund the apportionments for the purposes described in this chapter that are expressly authorized by the Legislature in the annual Budget Act. Pursuant to that legislative direction, the committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the purposes described in this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

101053. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

101054. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum necessary to carry out Section 101057, appropriated without regard to fiscal years.

101055. The board, as defined in subdivision (b) of Section 101051, may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account or any other approved form of interim financing, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The board, as defined in subdivision (b) of Section 101051, shall execute any documents required by the

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Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

101056. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes, subject to designated conditions, the Treasurer may maintain separate accounts for the investment of bond proceeds and for the investment earnings on those proceeds. The Treasurer may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds required or desirable under federal law to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

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101057. (a) For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount not to exceed the amount of the unsold bonds that have been authorized by the Higher Education Facilities Finance Committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the 2006 University Capital Outlay Bond Fund consistent with this chapter. Any money made available under this section shall be returned to the General Fund, plus an amount equal to the interest that the money would have earned in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

(b) Any request forwarded to the Legislature and the Department of Finance for funds from this bond issue for expenditure for the purposes described in this chapter by the University of California, the Hastings College of the Law, or the California State University shall be accompanied by the five-year capital outlay plan. Requests forwarded by a university or college shall include a schedule that prioritizes the seismic retrofitting needed to significantly reduce, in the judgment of the particular university or college, seismic hazards in buildings identified as high priority by the university or college.

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101058. All money deposited in the 2006 University Capital Outlay Bond Fund that is derived from premium and accrued interest on bonds sold shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

101059. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the voters of the state for the issuance of the bonds described in this chapter includes the approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

101060. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

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~~SEC. 17. Section 65997 of the Government Code is amended~~ to read:

65997. (a) The following provisions shall be the exclusive methods of mitigating environmental effects related to the adequacy of school facilities when considering the approval or the establishment of conditions for the approval of a development project, as defined in Section 17620 of the Education Code, pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code:

(1) Chapter 12 (commencing with Section 17000) of, or Chapter 12.5 (commencing with Section 17070.10) of, Part 10 of the Education Code.

(2) Chapter 14 (commencing with Section 17085) of Part 10 of the Education Code.

(3) Chapter 18 (commencing with Section 17170) of Part 10 of the Education Code.

(4) Article 2.5 (commencing with Section 17430) of Chapter 4 of Part 10.5 of the Education Code.

(5) Section 17620 of the Education Code.

(6) Chapter 2.5 (commencing with Section 53311) of Division 2 of Title 5.

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(7) Chapter 4.7 (commencing with Section 65970) of Division 1 of Title 7.

(b) A public agency may not, pursuant to Division 13 (commencing with Section 21000) of the Public Resources Code or Division 2 (commencing with Section 66410) of this code, deny approval of a project on the basis of the adequacy of school facilities.

(c) (1) This section shall become operative on or after any statewide election in 2012, if a statewide general obligation bond measure submitted for voter approval in 2012 or thereafter that includes bond issuance authority to fund construction of kindergarten and grades 1 to 12, inclusive, public school facilities is submitted to the voters and fails to be approved.

(2) (A) This section shall become inoperative if subsequent to the failure of a general obligation bond measure described in paragraph (1) a statewide general bond measure as described in paragraph (1) is approved by the voters.

(B) Thereafter, this section shall become operative if a statewide general obligation bond measure submitted for voter approval that includes bond issuance authority to fund construction of kindergarten and grades 1 to 12, inclusive, public school facilities is submitted to the voters and fails to be approved and shall become inoperative if subsequent to the failure of the general obligation bond measure a statewide bond measure as described in this subparagraph is approved by the voters.

(d) Notwithstanding any other provision of law, a public agency may deny or refuse to approve a legislative act involving, but not limited to, the planning, use, or development of real property, on the basis that school facilities are inadequate, except that a public agency may not require the payment or satisfaction of a fee, charge, dedication, or other financial requirement in excess of that levied or imposed pursuant to Section 65995 and, if applicable, any amounts specified in Sections 65995.5 or 65995.7.

SEC. 18. Section 4 of Chapter 421 of the Statutes of 2001 is amended to read:

Sec. 4. This act shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted

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statute, that is enacted before January 1, 2010, deletes or extends that date.

SEC. 19. Section 4 of Chapter 637 of the Statutes of 2002 is amended to read:

Sec. 4. This act shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 20. (a) Up to twenty-one million dollars ($21,000,000) of any funds that are required to be made available for rehabilitation or construction of joint-use facilities for public schools and that result or are derived from the sale of bonds issued on or before January 1, 2006, shall be transferred to the State Allocation Board and may be apportioned by that board for the purposes of Article 10.6 (commencing with Section 17077.40) of Chapter 12.5 of Part 10 of the Education Code.

(b) Any funds remaining after the transfer required under subdivision (a) that conform to the description set forth in that subdivision shall be transferred to the State Allocation Board and may be apportioned by that board for any of the purposes of Chapter 12.5 (commencing with Section 17070.10) of Part 10 of the Education Code.

SEC. 21. The Secretary of State shall submit Sections 16 and 20 of this act to the voters at the November 7, 2006, statewide general election.

SEC. 22. Notwithstanding any other provision of law, with respect to the Kindergarten-University Public Education Facilities Bond Act of 2006, as set forth in Section 16 of this act, all ballots of the November 7, 2006, statewide general election shall have printed thereon and in a square thereof, exclusively the words: "Kindergarten-University Public Education Facilities Bond Act of 2006" and in the same square under those words, the following in 8-point type:

"This ten billion four hundred sixteen million dollar ($10,416,000,000) bond issue will provide needed funding to relieve public school overcrowding and to repair older schools. It will improve earthquake safety and fund vocational educational facilities in public schools. Bond funds must be spent according to strict accountability measures. Funds will also be used to repair and upgrade existing public college and university

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buildings and to build new classrooms to accommodate the growing student enrollment in the California Community Colleges, the University of California, and the California State University."

Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

SEC. 23. Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in Section 22 shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

SEC. 24. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 25. Sections 1 to 15, inclusive, and Sections 18 and 19 of this act shall become operative only if the voters approve the Kindergarten-University Public Education Facilities Bond Act of 2006, as set forth in Section 16 of this act.

SEC. 26. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure, at the earliest possible time, that the electorate is provided with the opportunity to vote on the financing of necessary educational facilities at the November 7, 2006, statewide general election, including related statutory changes, it is necessary that this act take effect immediately.

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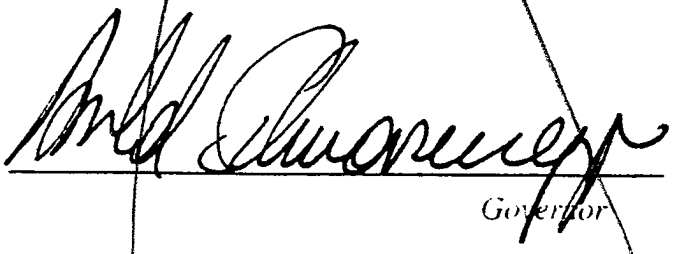
FILED
in the office of the Secretary of State
of the State of California

MAY 20 2006

At 1:48 O'clock P M.
BRUCE McPHERSON, Secretary of State
By [illegible]
Deputy Secretary of State

Approved MAY 20, 2006



Governor

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TEXT OF PROPOSITION 1E

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PROP. 1E

This law proposed by Assembly Bill ~~16~~ of the 2001–2002 Regular Session (Chapter 33, Statutes of 2001) is submitted to the people in accordance with the provisions of Article XVI of the California Constitution.

This proposed law adds sections to the ~~Education~~ Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

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Ch. 33
(4)

Assembly Bill No. 140

Passed the Assembly May 5, 2006

Chief Clerk of the Assembly

Passed the Senate May 4, 2006

Secretary of the Senate

This bill was received by the Governor this 9 day of May, 2006, at 4:00 o'clock P. M.

Private Secretary of the Governor

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CHAPTER 33(4)

An act to add Chapter 1.699 (commencing with Section 5096.800) to Division 5 of the Public Resources Code, relating to financing disaster preparedness and flood prevention projects, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 140, Nunez. Disaster Preparedness and Flood Prevention Bond Act of 2006.

Under existing law, various measures have been approved by the voters to provide funds for water projects, facilities, and programs.

This bill would enact the Disaster Preparedness and Flood Prevention Bond Act of 2006, which would, if approved by the voters, authorize the issuance and sale of bonds in the amount of $4,090,000,000 for the purposes of financing disaster preparedness and flood prevention projects.

This bill would require the Secretary of State to submit this bond act to the voters at the November 7, 2006, statewide general election.

The bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Chapter 1.699 (commencing with Section 5096.800) is added to Division 5 of the Public Resources Code, to read:

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CHAPTER 1.699. DISASTER PREPAREDNESS AND FLOOD PREVENTION BOND ACT OF 2006

Article 1. General Provisions

5096.800. This chapter shall be known and may be cited as the Disaster Preparedness and Flood Prevention Bond Act of 2006.

Article 2. Definitions

5096.805. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

(a) "Board" means the Reclamation Board or successor entity.

(b) "Committee" means the Disaster Preparedness and Flood Prevention Bond Finance Committee, created by Section 5096.957.

(c) "Delta" means the area of the Sacramento-San Joaquin Delta as defined in Section 12220 of the Water Code.

(d) "Department" means the Department of Water Resources.

(e) "Facilities of the State Plan of Flood Control" means the levees, weirs, channels, and other features of the federal and state authorized flood control facilities located in the Sacramento and San Joaquin River drainage basin for which the board or the department has given the assurances of nonfederal cooperation to the United States required for the project, and those facilities identified in Section 8361 of the Water Code.

(f) "Fund" means the Disaster Preparedness and Flood Prevention Bond Fund of 2006, created by Section 5096.806.

(g) "Project levees" means the levees that are part of the facilities of the State Plan of Flood Control.

(h) "Restoration" means the improvement of a physical structure or facility and, in the case of natural system and landscape features includes, but is not limited to, a project for the control of erosion, the control and elimination of exotic species, including prescribed burning, fuel hazard reduction, fencing out threats to existing or restored natural resources, road elimination, and other plant and wildlife habitat improvement to increase the natural system value of the property. A restoration project shall

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include the planning, monitoring, and reporting necessary to ensure successful implementation of the project objectives.

(i) "State General Obligation Bond Law" means the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code).

(j) "State Plan of Flood Control" means the state and federal flood control works, lands, programs, plans, conditions, and mode of maintenance and operations of the Sacramento River Flood Control Project described in Section 8350 of the Water Code, and of flood control projects in the Sacramento River and San Joaquin River watersheds authorized pursuant to Article 2 (commencing with Section 12648) of Chapter 2 of Part 6 of Division 6 of the Water Code for which the board or the department has provided the assurances of nonfederal cooperation to the United States, which shall be updated by the department and compiled into a single document entitled "The State Plan of Flood Control."

(k) "Urban area" means any contiguous area in which more than 10,000 residents are protected by project levees.

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Article 3. Disaster Preparedness and Flood Prevention Bond Fund of 2006

5096.806. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Disaster Preparedness and Flood Prevention Bond Fund of 2006, which is hereby created.

Article 4. Disaster Preparedness and Flood Prevention Program

5096.820. (a) The sum of four billion ninety million dollars ($4,090,000,000) shall be available, upon appropriation therefor, for disaster preparedness and flood prevention projects pursuant to this article.

(b) In expending funds pursuant to this article, the Governor shall do all of the following:

(1) Secure the maximum feasible amounts of federal and local matching funds to fund disaster preparedness and flood prevention projects in order to ensure prudent and cost-effective

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use of these funds to the extent that this does not prohibit timely implementation of this article.

(2) Prioritize project selection and project design to achieve maximum public benefits from the use of these funds.

(3) In connection with the submission of the annual Governor's Budget, submit an annual Bond Expenditure Disaster Preparedness and Flood Prevention Plan that describes in detail the proposed expenditures of bond funds, the amount of federal appropriations and local funding obtained to fund disaster preparedness and flood prevention projects to match those expenditures, and an investment strategy to meet long-term flood protection needs and minimize state taxpayer liabilities from flooding.

5096.821. Three billion dollars ($3,000,000,000) shall be available, upon appropriation to the department, for the following purposes:

(a) The evaluation, repair, rehabilitation, reconstruction, or replacement of levees, weirs, bypasses, and facilities of the State Plan of Flood Control by all of the following actions:

(1) Repairing erosion sites and removing sediment from channels or bypasses.

(2) Evaluating and repairing levees and any other facilities of the State Plan of Flood Control.

(3) Implementing mitigation measures for a project undertaken pursuant to this subdivision. The department may fund participation in a natural community conservation plan pursuant to Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code to facilitate projects authorized by this subdivision.

(b) Improving or adding facilities to the State Plan of Flood Control to increase levels of flood prevention for urban areas, including all related costs for mitigation and infrastructure relocation. Funds made available by this subdivision may be expended for state financial participation in federal and state authorized flood control projects, feasibility studies and design of federal flood damage reduction and related projects, and reservoir reoperation and groundwater flood storage projects. Not more than two hundred million dollars ($200,000,000) may be expended on a single project, excluding authorized flood control improvements to Folsom Dam.

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(c) (1) To reduce the risk of levee failure in the delta.

(2) The funds made available for the purpose specified in paragraph (1) shall be expended for both of the following purposes:

(A) Local assistance under the delta levee maintenance subventions program under Part 9 (commencing with Section 12980) of Division 6 of the Water Code, as that part may be amended.

(B) Special flood protection projects under Chapter 2 (commencing with Subdivision 12310) of Part 4.8 of Division 6 of the Water Code, as that chapter may be amended.

5096.824. (a) Five hundred million dollars ($500,000,000) shall be available, upon appropriation to the department, for payment for the state's share of the nonfederal costs, and related costs, of flood control and flood prevention projects authorized under any of the following:

(1) The State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6 of the Water Code).

(2) The Flood Control Law of 1946 (Chapter 3 (commencing with Section 12800) of Part 6 of Division 6 of the Water Code).

(3) The California Watershed Protection and Flood Prevention Law (Chapter 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code).

(b) The costs described in subdivision (a) include costs incurred in connection with either of the following:

(1) The granting of credits or loans to local agencies, as applicable, pursuant to Sections 12585.3, 12585.4 of, subdivision (d) of Section 12585.5 of, and Sections 12866.3 and 12866.4 of, the Water Code.

(2) The implementation of Chapter 3.5 (commencing with Section 12840) of Part 6 of Division 6 of the Water Code.

(c) The funds made available by this section shall be allocated only to projects that are not part of the State Plan of Flood Control.

5096.825. Two hundred ninety million dollars ($290,000,000) shall be available, upon appropriation, for the protection, creation, and enhancement of flood protection corridors and bypasses through any of the following actions:

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(a) Acquiring easements and other interests in real property to protect or enhance flood protection corridors and bypasses while preserving or enhancing the agricultural use of the real property.

(b) Constructing new levees necessary for the establishment of a flood protection corridor or bypass.

(c) Setting back existing flood control levees, and in conjunction with undertaking those setbacks, strengthening or modifying existing levees and weirs.

(d) Relocating or flood proofing structures necessary for the establishment of a flood protection corridor.

(e) Acquiring interests in, or providing incentives for maintaining agricultural uses of, real property that is located in a flood plain that cannot reasonably be made safe from future flooding.

(f) Acquiring easements and other interests in real property to protect or enhance flood protection corridors while preserving or enhancing the wildlife value of the real property.

(g) Flood plain mapping and related activities, including both of the following:

(1) The development of flood hazard maps, including all necessary studies and surveys.

(2) Alluvial fan flood plain mapping.

5096.827. Three hundred million dollars ($300,000,000) shall be available, upon appropriation to the department, for grants for stormwater flood management projects that meet all of the following requirements:

(a) Have a nonstate cost share of not less than 50 percent.

(b) Are not part of the State Plan of Flood Control.

(c) Are designed to manage stormwater runoff to reduce flood damage and where feasible, provide other benefits, including groundwater recharge, water quality improvement, and ecosystem restoration.

(d) Comply with applicable regional water quality control plans.

(e) Are consistent with any applicable integrated regional water management plan.

5096.828. Funds provided by this article are only available for appropriation until July 1, 2016, and at that time the amount of indebtedness authorized by this chapter shall be reduced by

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the amount of funds provided by this article that have not been appropriated.

Article 16. Program Expenditures

5096.953. The Secretary of the Resources Agency shall provide for an independent audit of expenditures pursuant to this chapter to ensure that all moneys are expended in accordance with the requirements of this chapter. The secretary shall publish a list of all program and project expenditures pursuant to this chapter not less than annually, in written form, and shall post an electronic form of the list on the Resources Agency's Internet Web site.

Article 17. Fiscal Provisions

5096.955. (a) Bonds in the total amount of four billion ninety million dollars ($4,090,000,000), not including the amount of any refunding bonds issued in accordance with Section 5096.966, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute valid and binding obligations of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) The Treasurer shall sell the bonds authorized by the committee pursuant to this section. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 of the Government Code.

5096.956. The bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law, and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

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5096.957. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Disaster Preparedness and Flood Prevention Bond Finance Committee is hereby created. For the purposes of this chapter, the Disaster Preparedness and Flood Prevention Bond Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the department is designated the "board."

5096.958. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter to carry out this chapter and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

5096.959. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

5096.960. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable.

(b) The sum that is necessary to carry out Section 5096.963, appropriated without regard to fiscal years.

5096.961. The department may request the Pooled Money Investment Board to make a loan from the Pooled Money

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Investment Account, in accordance with Section 16312 of the Government Code, for the purpose of carrying out this chapter. The amount of the request shall not exceed the amount of the unsold bonds that the committee has, by resolution, authorized to be sold for the purpose of carrying out this chapter. The department shall execute those documents required by the Pooled Money Investment Board to obtain and repay the loan. Any amounts loaned shall be deposited in the fund to be allocated by the department in accordance with this chapter.

5096.962. Notwithstanding any other provision of this chapter, or of the State General Obligation Bond Law, if the Treasurer sells bonds that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and for the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

5096.963. For the purposes of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized by the committee to be sold for the purpose of carrying out this chapter. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, with interest at the rate earned by the money in the Pooled Money Investment Account, from proceeds received from the sale of bonds for the purpose of carrying out this chapter.

5096.964. All money deposited in the fund that is derived from premium and accrued interest on bonds sold pursuant to this chapter shall be reserved in the fund and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

5096.965. Pursuant to Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government

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Code, the cost of bond issuance shall be paid out of the bond proceeds. These costs shall be shared proportionally by each program funded through this bond act.

5096.966. The bonds issued and sold pursuant to this chapter may be refunded in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code, which is a part of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of the bonds under this chapter shall include approval of the issuance of any bonds issued to refund any bonds originally issued under this chapter or any previously issued refunding bonds.

5096.967. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

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~~SEC. 2. (a) Section 1 of this act shall become operative upon~~ the adoption by the voters of the Disaster Preparedness and Flood Prevention Bond Act of 2006, as set forth in Section 1 of this act.

SEC. 3. Notwithstanding Sections 13115 and 13117 of the Elections Code, the following measures shall be placed on the ballot for the November 7, 2006, statewide general election in the following order:

(a) Senate Constitutional Amendment No. 7 of the 2005–06 Regular Session shall be placed first on the ballot and shall be designated as Proposition 1A.

(b) The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 shall be placed second on the ballot and shall be designated as Proposition 1B.

(c) The Housing and Emergency Shelter Trust Fund Act of 2006 shall be placed third on the ballot and shall be designated as Proposition 1C.

(d) The Kindergarten-University Public Education Facilities Bond Act of 2006 shall be placed fourth on the ballot and shall be designated as Proposition 1D.

(e) The Disaster Preparedness and Flood Prevention Bond Act of 2006 shall be placed fifth on the ballot and shall be designated as Proposition 1E.

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SEC. 4. (a) Notwithstanding any other provision of law, all ballots of the November 7, 2006, statewide general election shall have printed thereon and in a square thereof, exclusively, the words: "Disaster Preparedness and Flood Prevention Bond Act of 2006" and in the same square under those words, the following in 8-point type:

"This act rebuilds and repairs California's most vulnerable flood control structures to protect homes and prevent loss of life from flood-related disasters, including levee failures, flash floods, and mudslides; it protects California's drinking water supply system by rebuilding delta levees that are vulnerable to earthquakes and storms; by authorizing a $4.09 billion dollar bond act."

Opposite the square, there shall be left spaces in which the voters may place a cross in the manner required by law to indicate whether they vote for or against the act.

(b) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (a) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General may include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and the financial impact summary.

(c) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choices by means thereof are in compliance with this section.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the submission of Section 1 of this act to the voters at the November 7, 2006, statewide general election, and to provide for improved disaster preparedness and flood prevention, as soon as possible, it is necessary that this act take effect immediately.

SUBJECT TO COURT ORDERED CHANGES

FILED
in the office of the Secretary of State
of the State of California

MAY 19 2006

At 4:40 O'clock P M.
BRUCE McPHERSON, Secretary of State
By [signature]
Deputy Secretary of State

Approved MAY 19, 2006

[signature]
Governor

SUBJECT TO COURT ORDERED CHANGES

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TEXT OF PROPOSITION 83

SUBJECT TO COURT
ORDERED CHANGES

PROP. 83

SA [illegible]

#[illegible]4

Penal Code and amends sections of the Welfare and Institutions

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, ~~repeals,~~ and adds sections to the ~~Public Utilities~~ Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SUBJECT TO COURT ORDERED CHANGES

INITIATIVE #1154
SA2005RF0092

SECTION 1. SHORT TITLE

This Act shall be known and may be cited as "The Sexual Predator Punishment and Control Act: Jessica's Law"

SEC. 2. FINDINGS AND DECLARATIONS

The People find and declare each of the following:

(a) The State of California currently places a high priority on maintaining public safety through a highly skilled and trained law enforcement as well as laws that deter and punish criminal behavior.

(b) Sex offenders have very high recidivism rates. According to a 1998 report by the U.S. Department of Justice, sex offenders are the least likely to be cured and the most likely to reoffend, and they prey on the most innocent members of our society. More than two-thirds of the victims of rape and sexual assault are under the age of 18. Sex offenders have a dramatically higher recidivism rate for their crimes than any other type of violent felon.

(c) Child pornography exploits children and robs them of their innocence. FBI studies have shown that pornography is very influential in the actions of sex offenders. Statistics show that 90% of the predators who molest children have had some type of involvement with pornography. Predators often use child pornography to aid in their molestation.

(d) The universal use of the Internet has also ushered in an era of increased risk to our children by predators using this technology as a tool to lure children away from their homes and into dangerous situations. Therefore, to reflect society's disapproval of this type of activity, adequate penalties must be enacted to ensure predators cannot escape prosecution.

(e) With these changes, Californians will be in a better position to keep themselves, their children, and their communities safe from the threat posed by sex offenders.

(f) It is the intent of the People in enacting this measure to help Californians better protect themselves, their children, and their communities; it is not the intent of the People to embarrass or harass persons convicted of sex offenses.

(g) Californians have a right to know about the presence of sex offenders in their communities, near their schools, and around their children.

(h) California must also take additional steps to monitor sex offenders, to protect the public from them, and to provide adequate penalties for and safeguards against sex offenders, particularly those who prey on children. Existing laws that punish aggravated sexual assault, habitual sexual offenders, and child molesters must be strengthened and improved. In addition, existing laws that provide for the commitment and control of sexually violent predators must be strengthened and improved.

(i) Additional resources are necessary to adequately monitor and supervise sexual predators and offenders. It is vital that the lasting effects of the assault do not further victimize victims of sexual assault.

(j) Global Positioning System technology is an useful tool for monitoring sexual predators and other sex offenders and is a cost effective measure for parole supervision. It is critical to have close supervision of this class of criminals to monitor these offenders and prevent them from committing other crimes.

(k) California is the only state, of the number of states that have enacted laws allowing involuntary civil commitments for persons identified as sexually violent predators, which does not provide for indeterminate commitments. California automatically allows for a jury trial every two years irrespective of whether there is any evidence to suggest or prove that the

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committed person is no longer a sexually violent predator. As such, this act allows California to protect the civil rights of those persons committed as a sexually violent predator while at the same time protect society and the system from unnecessary or frivolous jury trial actions where there is no competent evidence to suggest a change in the committed person.

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SEC. 3. Section 209 of the Penal Code is amended to read:

209. (a) Any person who seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps or carries away another person by any means whatsoever with intent to hold or detain, or who holds or detains, that person for ransom, reward or to commit extortion or to exact from another person any money or valuable thing, or any person who aids or abets any such act, is guilty of a felony, and upon conviction thereof, shall be punished by imprisonment in the state prison for life without possibility of parole in cases in which any person subjected to any such act suffers death or bodily harm, or is intentionally confined in a manner which exposes that person to a substantial likelihood of death, or shall be punished by imprisonment in the state prison for life with the possibility of parole in cases where no such person suffers death or bodily harm.

(b)(1) Any person who kidnaps or carries away any individual to commit robbery, rape, spousal rape, oral copulation, sodomy, or ~~sexual penetration in~~ *any* violation of Section *264.1, 288, or* 289, shall be punished by imprisonment in the state prison for life with *the* possibility of parole.

(2) This subdivision shall only apply if the movement of the victim is beyond that merely incidental to the commission of, and increases the risk of harm to the victim over and above that necessarily present in, the intended underlying offense.

(c) In all cases in which probation is granted, the court shall, except in unusual cases where the interests of justice would best be served by a lesser penalty, require as a condition of the probation that the person be confined in the county jail for 12 months. If the court grants probation without requiring the defendant to be confined in the county jail for 12 months, it shall specify its reason or reasons for imposing a lesser penalty.

(d) Subdivision (b) shall not be construed to supersede or affect Section 667.61. A person may be charged with a violation of subdivision (b) and Section 667.61. However, a person may not be punished under subdivision (b) and Section 667.61 for the same act that constitutes a violation of both subdivision (b) and Section 667.61.

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SEC. 4. Section 220 of the Penal Code is amended to read:

220. ~~Every~~ *(a) Except as provided in subdivision (b), any* person who assaults another with intent to commit mayhem, rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 ~~is punishable~~ *shall be punished* by imprisonment in the state prison for two, four, or six years.

(b) Any person who, in the commission of a burglary of the first degree, as defined in subdivision (a) of Section 460, assaults another with intent to commit rape, sodomy, oral copulation, or any violation of Section 264.1, 288, or 289 shall be punished by imprisonment in the state prison for life with the possibility of parole.

SEC. 5. Section 269 of the Penal Code is amended to read:

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SUBJECT TO COURT ORDERED CHANGES

269. (a) Any person who commits any of the following acts upon a child who is under 14 years of age and ~~10~~ *seven* or more years younger than the person is guilty of aggravated sexual assault of a child:

(1) ~~A~~ *Rape, in* violation of paragraph (2) *or (6)* of subdivision (a) of Section 261.

(2) ~~A~~ *Rape or sexual penetration, in concert, in* violation of Section 264.1.

(3) Sodomy, in violation of *paragraph (2) or (3) of subdivision (c), or subdivision (d), of* Section 286~~, when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~.

(4) Oral copulation, in violation of *paragraph (2) or (3) of subdivision (c), or subdivision (d), of* Section 288a~~, when committed by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~.

(5) ~~A~~ *Sexual penetration, in* violation of subdivision (a) of Section 289.

(b) Any person who violates this section is guilty of a felony and shall be punished by imprisonment in the state prison for 15 years to life.

(c) The court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions as defined in subdivision (d) of Section 667.6.

SEC. 6. Section 288.3 is added to the Penal Code, to read:

288.3. (a) Every person who contacts or communicates with a minor, or attempts to contact or communicate with a minor, who knows or reasonably should know that the person is a minor, with intent to commit an offense specified in Section 207, 209, 261, 264.1, 273a, 286, 288, 288a, 288.2, 289, 311.1, 311.2, 311.4 or 311.11 involving the minor shall be punished by imprisonment in the state prison for the term prescribed for an attempt to commit the intended offense.

(b) As used in this section, "contacts or communicates with" shall include direct and indirect contact or communication that may be achieved personally or by use of an agent or agency, any print medium, any postal service, a common carrier or communication common carrier, any electronic communications system, or any telecommunications, wire, computer, or radio communications device or system.

(c) A person convicted of a violation of subdivision (a) who has previously been convicted of a violation of subdivision (a) shall be punished by an additional and consecutive term of imprisonment in the state prison for five years.

SEC. 7. Section 290.3 of the Penal Code is amended to read:

290.3. (a) Every person who is convicted of any offense specified in subdivision (a) of Section 290 shall, in addition to any imprisonment or fine, or both, imposed for violation commission of the underlying offense, be punished by a fine of ~~two~~ *three* hundred dollars ~~($200)~~ *($300)* upon the first conviction or a fine of ~~three~~ *five* hundred dollars ~~($300)~~ *($500)* upon the second and each subsequent conviction, unless the court determines that the defendant does not have the ability to pay the fine.

An amount equal to all fines collected pursuant to this subdivision during the preceding month upon conviction of, or upon the forfeiture of bail by, any person arrested for, or convicted of, committing an offense specified in subdivision (a) of Section 290, shall be transferred once a month by the county treasurer to the Controller for deposit in the General Fund. Moneys

SUBJECT TO COURT ORDERED CHANGES

deposited in the General Fund pursuant to this subdivision shall be transferred by the Controller as provided in subdivision (b).

(b) ~~Out~~ *Except as provided in subdivision (d), out* of the moneys deposited pursuant to subdivision (a) as a result of second and subsequent convictions of Section 290, one-third shall first be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1) of this subdivision. Out of the remainder of all moneys deposited pursuant to subdivision (a), 50 percent shall be transferred to the Department of Justice Sexual Habitual Offender Fund, as provided in paragraph (1), 25 percent shall be transferred to the Department of Justice DNA Testing Fund, as provided in paragraph (2), and 25 percent shall be allocated equally to counties that maintain a local DNA testing laboratory, as provided in paragraph (3).

(1) Those moneys so designated shall be transferred to the Department of Justice Sexual Habitual Offender Fund created pursuant to paragraph (5) of subdivision (b) of Section 11170 and, when appropriated by the Legislature, shall be used for the purposes of Chapter 9.5 (commencing with Section 13885) and Chapter 10 (commencing with Section 13890) of Title 6 of Part 4 for the purpose of monitoring, apprehending, and prosecuting sexual habitual offenders.

(2) Those moneys so designated shall be directed to the Department of Justice and transferred to the Department of Justice DNA Testing Fund, which is hereby created, for the exclusive purpose of testing deoxyribonucleic acid (DNA) samples for law enforcement purposes. The moneys in that fund shall be available for expenditure upon appropriation by the Legislature.

(3) Those moneys so designated shall be allocated equally and distributed quarterly to counties that maintain a local DNA testing laboratory. Before making any allocations under this paragraph, the Controller shall deduct the estimated costs that will be incurred to set up and administer the payment of these funds to the counties. Any funds allocated to a county pursuant to this paragraph shall be used by that county for the exclusive purpose of testing DNA samples for law enforcement purposes.

(c) Notwithstanding any other provision of this section, the Department of Corrections or the Department of the Youth Authority may collect a fine imposed pursuant to this section from a person convicted of a violation of any offense listed in subdivision (a) of Section 290, that results in incarceration in a facility under the jurisdiction of the Department of Corrections or the Department of the Youth Authority. All moneys collected by the Department of Corrections or the Department of the Youth Authority under this subdivision shall be transferred, once a month, to the Controller for deposit in the General Fund, as provided in subdivision (a), for transfer by the Controller, as provided in subdivision (b).

(d) An amount equal to one hundred dollars for every fine imposed pursuant to subdivision (a) in excess of one hundred dollars shall be transferred to the Department of Corrections and Rehabilitation to defray the cost of the global positioning system used to monitor sex offender parolees.

SEC. 8. Section 311.11 of the Penal Code is amended to read:

311.11. (a) Every person who knowingly possesses or controls any matter, representation of information, data, or image, including, but not limited to, any film, filmstrip, photograph, negative, slide, photocopy, videotape, video laser disc, computer hardware, computer software, computer floppy disc, data storage media, CD-ROM, or computer-generated equipment or any other computer-generated image that contains or incorporates in any manner, any film or filmstrip, the production of which involves the use of a person under the age of 18 years,

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SUBJECT TO COURT ORDERED CHANGES

Enhancement of prison terms for new offenses because of prior prison terms shall be imposed as follows: ¶ — put in roma

knowing that the matter depicts a person under the age of 18 years personally engaging in or simulating sexual conduct, as defined in subdivision (d) of Section 311.4, is guilty of a ~~public offense~~ *felony* and shall be punished by imprisonment in the *state prison, or a* county jail for up to one year, or by a fine not exceeding two thousand five hundred dollars ($2,500), or by both the fine and imprisonment.

(b) ~~If a~~ *Every* person *who commits a violation of subdivision (a), and who* has been previously convicted of a violation of this section, ~~or of a violation of subdivision (b) of Section 311.2, or subdivision (b) of Section 311.4, he or she~~ *an offense described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290, or an attempt to commit any of the above-mentioned offenses,* is guilty of a felony and shall be punished by imprisonment in the state prison for two, four, or six years. — put in italics

(c) It is not necessary to prove that the matter is obscene in order to establish a violation of this section.

(d) This section does not apply to drawings, figurines, statues, or any film rated by the Motion Picture Association of America, nor does it apply to live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction.

SEC. 9. Section 667.5 of the Penal Code is amended to read: — CRM/CHP 2002 — 606 — 2

667.5. (a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term served for any felony; provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of five years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(c) For the purpose of this section, "violent felony" shall mean any of the following:

(1) Murder or voluntary manslaughter.

(2) Mayhem.

(3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.

(4) Sodomy ~~by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~ *as defined in subdivision (c) or (d) of Section 286.*

(5) Oral copulation ~~by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~ *as defined in subdivision (c) or (d) of Section 288a.*

(6) Lewd ~~acts on a child under the age of 14 years~~ *or lascivious act* as defined in *subdivision (a) or (b) of* Section 288.

(7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, *12022.8,* or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and

461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in *subdivision (a) of Section 12022.3, or* Section 12022.5 or 12022.55.

(9) Any robbery.

(10) Arson, in violation of subdivision (a) or (b) of Section 451.

(11) ~~The offense~~ *Sexual penetration as* defined in subdivision (a) *or (j)* of Section 289 ~~where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~.

(12) Attempted murder.

(13) A violation of Section 12308, 12309, or 12310.

(14) Kidnapping.

(15) Assault with the intent to commit ~~mayhem, rape, sodomy, or oral copulation~~ *a specified felony,* in violation of Section 220.

(16) Continuous sexual abuse of a child, in violation of Section 288.5.

(17) Carjacking, as defined in subdivision (a) of Section 215.

(18) ~~A~~ *Rape, spousal rape, or sexual penetration, in concert, in* violation of Section 264.1.

(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.

(20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418.

The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole, whichever first occurs, including any time during which the defendant remains subject to reimprisonment for escape from custody or is reimprisoned on revocation of parole. The additional penalties provided for prior prison terms shall not be imposed unless they are charged and admitted or found true in the action for the new offense.

(e) The additional penalties provided for prior prison terms shall not be imposed for any felony for which the defendant did not serve a prior separate term in state prison.

(f) A prior conviction of a felony shall include a conviction in another jurisdiction for an offense which, if committed in California, is punishable by imprisonment in the state prison if the defendant served one year or more in prison for the offense in the other jurisdiction. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense which includes all of the elements of the particular felony as defined under California law if the defendant served one year or more in prison for the offense in the other jurisdiction.

(g) A prior separate prison term for the purposes of this section shall mean a continuous completed period of prison incarceration imposed for the particular offense alone or in combination with concurrent or consecutive sentences for other crimes, including any reimprisonment on revocation of parole which is not accompanied by a new commitment to prison, and including any reimprisonment after an escape from incarceration.

(h) Serving a prison term includes any confinement time in any state prison or federal penal institution as punishment for commission of an offense, including confinement in a hospital or other institution or facility credited as service of prison time in the jurisdiction of the confinement.

(i) For the purposes of this section, a commitment to the State Department of Mental Health as a mentally disordered sex offender following a conviction of a felony, which commitment exceeds one year in duration, shall be deemed a prior prison term.

(j) For the purposes of this section, when a person subject to the custody, control, and discipline of the Director of Corrections is incarcerated at a facility operated by the Department of the Youth Authority, that incarceration shall be deemed to be a term served in state prison.

(k) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

Chapter 11

1994

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SEC. 10. Section 667.51 of the Penal Code is amended to read:

667.51. (a) Any person who is ~~found guilty~~ *convicted* of violating Section 288 *or 288.5* shall receive a five-year enhancement for a prior conviction of an offense ~~listed~~ *specified* in subdivision (b)~~, provided that no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense that results in a felony conviction~~.

(b) Section 261, *262,* 264.1, *269,* 285, 286, 288, 288a, 288.5, or 289, or any offense committed in another jurisdiction that includes all of the elements of any of the offenses ~~set forth~~ *specified* in this subdivision.

(c) ~~Section 261, 264.1, 286, 288, 288a, 288.5, or 289, or any offense committed in another jurisdiction that includes all of the elements of any of the offenses set forth in this subdivision.~~

~~(d)~~ A violation of Section 288 *or 288.5* by a person who has been previously convicted two or more times of an offense ~~listed~~ *specified* in subdivision ~~(c) is punishable as a felony~~ *(b) shall be punished* by imprisonment in the state prison for 15 years to life. ~~However, if the two or more prior convictions were for violations of Section 288, this subdivision is applicable only if the current violation or at least one of the prior convictions is for an offense other than a violation of subdivision (a) of Section 288. For purposes of this subdivision, a prior conviction is required to have been for charges brought and tried separately. The provisions of Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term in a state prison imposed pursuant to this section, but that person shall not otherwise be released on parole prior to that time.~~

Chapter

2002

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SEC. 11. Section 667.6 of the Penal Code is amended to read:

667.6. (a) Any person who is ~~found guilty of violating paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261, paragraph (1), (4), or (5) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, Section 288.5 or subdivision (a) of Section 289, of committing sodomy in violation of subdivision (k) of Section 286, of committing oral copulation in violation of subdivision (k) of Section 288a, or of committing sodomy or oral copulation in~~

~~violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~ *convicted of an offense specified in subdivision (e) and* who has been convicted previously of any of those offenses shall receive a five-year enhancement for each of those prior convictions ~~provided that no enhancement shall be imposed under this subdivision for any conviction occurring prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. In addition to the five-year enhancement imposed under this subdivision, the court also may impose a fine not to exceed twenty thousand dollars ($20,000) for anyone sentenced under these provisions. The fine imposed and collected pursuant to this subdivision shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs established pursuant to Section 13837~~.

(b) Any person *who is* convicted of an offense specified in subdivision ~~(a)~~ *(e) and* who has served two or more prior prison terms as defined in Section 667.5 for any ~~offense specified in subdivision (a),~~ *of those offenses* shall receive a 10-year enhancement for each of those prior terms ~~provided that no additional enhancement shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the person remained free of both prison custody and the commission of an offense which results in a felony conviction. In addition to the 10-year enhancement imposed under this subdivision, the court also may impose a fine not to exceed twenty thousand dollars ($20,000) for any person sentenced under this subdivision. The fine imposed and collected pursuant to this subdivision shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs established pursuant to Section 13837~~.

(c) In lieu of the term provided in Section 1170.1, a full, separate, and consecutive term may be imposed for each violation of ~~Section 220, other than an assault with intent to commit mayhem, provided that the person has been convicted previously of violating Section 220 for an offense other than an assault with intent to commit mayhem, paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261, paragraph (1), (4), or (5) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, Section 288.5 or subdivision (a) of Section 289, of committing sodomy in violation of subdivision (k) of Section 286, of committing oral copulation in violation of subdivision (k) of Section 288a, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person whether or not the crimes were committed during a single transaction.~~ *an offense specified in subdivision (e) if the crimes involve the same victim on the same occasion. A term may be imposed consecutively pursuant to this subdivision if a person is convicted of at least one offense specified in subdivision (e).* If the term is imposed consecutively pursuant to this subdivision, it shall be served consecutively to any other term of imprisonment, and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison.

(d) A full, separate, and consecutive term shall be ~~served~~ *imposed* for each violation of ~~Section 220, other than an assault with intent to commit mayhem, provided that the person has been convicted previously of violating Section 220 for an offense other than an assault with intent to commit mayhem, paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261, paragraph (1),~~

~~(4), or (5) of subdivision (a) of Section 262, Section 264.1, subdivision (b) of Section 288, subdivision (a) of Section 289, of committing sodomy in violation of subdivision (k) of Section 286, of committing oral copulation in violation of subdivision (k) of Section 288a, or of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~ *an offense specified in subdivision (e)* if the crimes involve separate victims or involve the same victim on separate occasions.

In determining whether crimes against a single victim were committed on separate occasions under this subdivision, the court shall consider whether, between the commission of one sex crime and another, the defendant had a reasonable opportunity to reflect upon his or her actions and nevertheless resumed sexually assaultive behavior. Neither the duration of time between crimes, nor whether or not the defendant lost or abandoned his or her opportunity to attack, shall be, in and of itself, determinative on the issue of whether the crimes in question occurred on separate occasions.

The term shall be served consecutively to any other term of imprisonment and shall commence from the time the person otherwise would have been released from imprisonment. The term shall not be included in any determination pursuant to Section 1170.1. Any other term imposed subsequent to that term shall not be merged therein but shall commence at the time the person otherwise would have been released from prison.

(e) *This section shall apply to the following offenses:*

(1) Rape, in violation of paragraph (2), (3), (6), or (7) of subdivision (a) of Section 261.

(2) Spousal rape, in violation of paragraph (1), (4), or (5) of subdivision (a) of Section 262.

(3) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(4) Sodomy, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d) or (k), of Section 286.

(5) Lewd or lascivious act, in violation of subdivision (b) of Section 288.

(6) Continuous sexual abuse of a child, in violation of Section 288.5.

(7) Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d) or (k), of Section 288a.

(8) Sexual penetration, in violation of subdivision (a) or (g) of Section 289.

(9) As a present offense under subdivision (c) or (d), assault with intent to commit a specified sexual offense, in violation of Section 220.

(10) As a prior conviction under subdivision (a) or (b), an offense committed in another jurisdiction that includes all of the elements of an offense specified in this subdivision.

(f) In addition to any enhancement imposed pursuant to subdivision (a) or (b), the court may also impose a fine not to exceed twenty thousand dollars ($20,000) for anyone sentenced under those provisions. The fine imposed and collected pursuant to this subdivision shall be deposited in the Victim-Witness Assistance Fund to be available for appropriation to fund child sexual exploitation and child sexual abuse victim counseling centers and prevention programs established pursuant to Section 13837. If the court orders a fine to be imposed pursuant to *this* subdivision ~~(a) or (b)~~, the actual administrative cost of collecting that fine, not to exceed 2 percent of the total amount paid, may be paid into the general fund of the county treasury for the use and benefit of the county.

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SEC. 12. Section 667.61 of the Penal Code is amended to read:

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667.61. (a) ~~A~~ *Any* person who is convicted of an offense specified in subdivision (c) under one or more of the circumstances specified in subdivision (d) or under two or more of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for *25 years to* life ~~and shall not be eligible for release on parole for 25 years except as provided in subdivision (j)~~.

(b) Except as provided in subdivision (a), ~~a~~ *any* person who is convicted of an offense specified in subdivision (c) under one of the circumstances specified in subdivision (e) shall be punished by imprisonment in the state prison for *15 years to* life ~~and shall not be eligible for release on parole for 15 years except as provided in subdivision (j)~~.

(c) This section shall apply to any of the following offenses:

(1) ~~A~~ *Rape, in* violation of paragraph (2) *or (6)* of subdivision (a) of Section 261.

(2) ~~A~~ *Spousal rape, in* violation of paragraph (1) *or (4)* of subdivision (a) of Section 262.

(3) ~~A~~ *Rape, spousal rape, or sexual penetration, in concert, in* violation of Section 264.1.

(4) ~~A~~ *Lewd or lascivious act, in* violation of subdivision (b) of Section 288.

(5) ~~A~~ *Sexual penetration, in* violation of subdivision (a) of Section 289.

(6) ~~Sodomy or oral copulation~~ *Sodomy,* in violation of *paragraph (2) or (3) of subdivision (c), or subdivision (d), of* Section 286 ~~or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~.

(7) ~~A~~ *Oral copulation, in violation of paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a.*

(8) Lewd or lascivious act, in violation of subdivision (a) of Section 288~~, unless the defendant qualifies for probation under subdivision (c) of Section 1203.066~~.

(9) Continuous sexual abuse of a child, in violation of Section 288.5.

(d) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) The defendant has been previously convicted of an offense specified in subdivision (c), including an offense committed in another jurisdiction that includes all of the elements of an offense specified in subdivision (c).

(2) The defendant kidnapped the victim of the present offense and the movement of the victim substantially increased the risk of harm to the victim over and above that level of risk necessarily inherent in the underlying offense in subdivision (c).

(3) The defendant inflicted aggravated mayhem or torture on the victim or another person in the commission of the present offense in violation of Section 205 or 206.

(4) The defendant committed the present offense during the commission of a burglary *of the first degree*, as defined in subdivision (a) of Section 460, with intent to commit an offense specified in subdivision (c).

(5) The defendant committed the present offense in violation of Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 288a, and, in the commission of that offense, any person committed any act described in paragraph (2), (3), or (4) of this subdivision.

(e) The following circumstances shall apply to the offenses specified in subdivision (c):

(1) Except as provided in paragraph (2) of subdivision (d), the defendant kidnapped the victim of the present offense in violation of Section 207, 209, or 209.5.

(2) Except as provided in paragraph (4) of subdivision (d), the defendant committed the present offense during the commission of a burglary~~, as defined in subdivision (a) of Section 460, or during the commission of a burglary of a building, including any commercial establishment, which was then closed to the public,~~ in violation of Section 459.

(3) The defendant personally inflicted great bodily injury on the victim or another person in the commission of the present offense in violation of Section 12022.53, 12022.7, or 12022.8.

(4) The defendant personally used a dangerous or deadly weapon or *a* firearm in the commission of the present offense in violation of Section 12022, 12022.3, 12022.5, or 12022.53.

(5) The defendant has been convicted in the present case or cases of committing an offense specified in subdivision (c) against more than one victim.

(6) The defendant engaged in the tying or binding of the victim or another person in the commission of the present offense.

(7) The defendant administered a controlled substance to the victim ~~by force, violence, or fear~~ in the commission of the present offense in violation of Section 12022.75.

(8) The defendant committed the present offense in violation of Section 264.1, subdivision (d) of Section 286, or subdivision (d) of Section 288a, and, in the commission of that offense, any person committed any act described in paragraph (1), (2), (3), (4), (6), or (7) of this subdivision.

(f) If only the minimum number of circumstances specified in subdivision (d) or (e) ~~which~~ *that* are required for the punishment provided in subdivision (a) or (b) to apply have been pled and proved, that circumstance or those circumstances shall be used as the basis for imposing the term provided in subdivision (a) or (b), *whichever is greater,* rather than being used to impose the punishment authorized under any other *provision of* law, unless another *provision of* law provides for a greater penalty *or the punishment under another provision of law can be imposed in addition to the punishment provided by this section.* However, if any additional circumstance or circumstances specified in subdivision (d) or (e) have been pled and proved, the minimum number of circumstances shall be used as the basis for imposing the term provided in subdivision (a), and any other additional circumstance or circumstances shall be used to impose any punishment or enhancement authorized under any other *provision of* law.

(g) Notwithstanding *Section 1385 or* any other *provision of* law, the court shall not strike any *allegation, admission, or finding of any* of the circumstances specified in subdivision (d) or (e) *for any person who is subject to punishment under this section.*

~~(g) The term specified in subdivision (a) or (b) shall be imposed on the defendant once for any offense or offenses committed against a single victim during a single occasion. If there are multiple victims during a single occasion, the term specified in subdivision (a) or (b) shall be imposed on the defendant once for each separate victim. Terms for other offenses committed during a single occasion shall be imposed as authorized under any other law, including Section 667.6, if applicable.~~

(h) ~~Probation~~ *Notwithstanding any other provision of law, probation* shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section ~~for any offense specified in paragraphs (1) to (6), inclusive, of subdivision (c)~~.

(i) For ~~the~~ *any offense specified in paragraphs (1) to (7), inclusive, of subdivision (c), the court shall impose a consecutive sentence for each offense that results in a conviction under this section if the crimes involve separate victims or involve the same victim on separate occasions as defined in subdivision (d) of Section 667.6.*

(j) The penalties provided in this section ~~to~~ *shall* apply~~,~~ *only if* the existence of any ~~fact required under~~ *circumstance specified in* subdivision (d) or (e) ~~shall be~~ *is* alleged in the accusatory pleading *pursuant to this section,* and *is* either admitted by the defendant in open court or found to be true by the trier of fact.

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~~(j) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce the minimum term of 25 years in the state prison imposed pursuant to subdivision (a) or 15 years in the state prison imposed pursuant to subdivision (b). However, in no case shall the minimum term of 25 or 15 years be reduced by more than 15 percent for credits granted pursuant to Section 2933, 4019, or any other law providing for conduct credit reduction. In no case shall any person who is punished under this section be released on parole prior to serving at least 85 percent of the minimum term of 25 or 15 years in the state prison.~~

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SEC. 13. Section 667.71 of the Penal Code is amended to read:

667.71. (a) For the purpose of this section, a habitual sexual offender is a person who has been previously convicted of one or more of the offenses ~~listed~~ *specified* in subdivision (c) and who is convicted in the present proceeding of one of those offenses.

(b) A habitual sexual offender ~~is punishable~~ *shall be punished* by imprisonment in the state prison for 25 years to life. ~~Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall apply to reduce any minimum term of 25 years in the state prison imposed pursuant to this section. However, in no case shall the minimum term of 25 years be reduced by more than 15 percent for credits granted pursuant to Section 2933, 4019, or any other law providing for conduct credit reduction. In no case shall any person who is punished under this section be released on parole prior to serving at least 85 percent of the minimum term of 25 years in the state prison.~~

(c) This section shall apply to any of the following offenses:

(1) ~~A~~ *Rape, in* violation of paragraph (2) *or (6)* of subdivision (a) of Section 261.

(2) ~~A~~ *Spousal rape, in* violation of paragraph (1) *or (4)* of subdivision (a) of Section 262.

(3) ~~A~~ *Rape, spousal rape, or sexual penetration, in concert, in* violation of Section 264.1.

(4) ~~A~~ *Lewd or lascivious act, in* violation of subdivision (a) or (b) of Section 288.

(5) ~~A~~ *Sexual penetration, in* violation of subdivision (a) *or (j)* of Section 289.

(6) ~~A~~ *Continuous sexual abuse of a child, in* violation of Section 288.5.

(7) ~~A~~ *Sodomy, in* violation of subdivision (c) *or (d)* of Section 286 ~~by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~.

(8) ~~A violation of subdivision (d) of Section 286.~~

~~(9) A~~ *Oral copulation, in* violation of subdivision (c) or (d) of Section 288a ~~by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person~~.

~~(10) A~~ *(9) Kidnapping, in* violation of subdivision (b) of Section 207.

~~(11) A~~ *(10) Kidnapping, in* violation of former subdivision (d) of Section 208 (kidnapping to commit specified sex offenses).

~~(12)~~ *(11)* Kidnapping, in violation of *subdivision (b) of* Section 209 with the intent to commit ~~rape, spousal rape, oral copulation, or sodomy or sexual penetration in violation of Section 289~~ *a specified sexual offense*.

~~(13) A~~ *(12) Aggravated sexual assault of a child, in* violation of Section 269.

~~(14)~~ *(13)* An offense committed in another jurisdiction that ~~has~~ *includes* all *of* the elements of an offense specified in ~~paragraphs (1) to (13), inclusive, of~~ this subdivision.

(d) *Notwithstanding Section 1385 or any other provision of law, the court shall not strike any allegation, admission, or finding of any prior conviction specified in subdivision (c) for any person who is subject to punishment under this section.*

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(e) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is subject to punishment under this section.

(f) This section shall apply only if the defendant's status as a habitual sexual offender is alleged in the ~~information~~ *accusatory pleading*, and either admitted by the defendant in open court, or found to be true by the ~~jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by trial by court sitting without a jury~~ *trier of fact.*

SEC. 14. Section 1203.06 of the Penal Code is amended to read:

1203.06. ~~Notwithstanding Section 1203:~~

(a) ~~Probation~~ *Notwithstanding any other provision of law, probation* shall not be granted to, nor shall the execution or imposition of sentence be suspended for, *nor shall a finding bringing the defendant within this section be stricken pursuant to Section 1385 for,* any of the following persons:

(1) Any person who personally used a firearm during the commission or attempted commission of any of the following crimes:

(A) Murder.

(B) Robbery, in violation of Section 211.

(C) Kidnapping, in violation of Section 207, *209, or 209.5.*

(D) ~~Kidnapping in violation of Section 209~~ *Lewd or lascivious act, in violation of Section 288.*

(E) Burglary of the first degree, as defined in Section 460.

(F) ~~Except as provided in Section 1203.065, rape~~ *Rape,* in violation of ~~paragraph (2) of subdivision (a) of~~ Section 261, *262, or 264.1.*

(G) Assault with intent to commit ~~rape or sodomy~~ *a specified sexual offense*, in violation of Section 220.

(H) Escape, in violation of Section 4530 or 4532.

(I) Carjacking, in violation of Section 215.

(J) ~~Any person convicted of aggravated~~ *Aggravated* mayhem, in violation of Section 205.

(K) Torture, in violation of Section 206.

(L) ~~Kidnapping, in violation of Section 209.5~~ *Continuous sexual abuse of a child, in violation of Section 288.5.*

(M) A felony violation of Section 136.1 or 137.

(N) Sodomy, in violation of Section 286.

(O) Oral Copulation, in violation of Section 288a.

(P) Sexual penetration, in violation of Section 289 or 264.1.

(Q) Aggravated sexual assault of a child, in violation of Section 269.

(2) Any person previously convicted of a felony specified in ~~subparagraphs (A) to (L), inclusive, of~~ paragraph (1), or assault with intent to commit murder under former Section 217, who is convicted of a subsequent felony and who was personally armed with a firearm at any time during its commission or attempted commission or was unlawfully armed with a firearm at the time of his or her arrest for the subsequent felony.

(3) Aggravated arson, in violation of Section 451.5.

(b)(1) The existence of any fact ~~which~~ *that* would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the ~~jury trying the issue of guilt, by the court where guilt is~~

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~~established by plea of guilty or nolo contendere, or by trial by the court sitting without a jury~~ *trier of fact.*

(2) ~~This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.~~

~~(3)~~ As used in subdivision (a), "used a firearm" means to display a firearm in a menacing manner, to intentionally fire it, ~~or~~ to intentionally strike or hit a human being with it, *or to use it in any manner that qualifies under Section 12022.5.*

~~(4)~~ *(3)* As used in subdivision (a), "armed with a firearm" means to knowingly carry *or have available for use* a firearm as a means of offense or defense.

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SEC. 15. Section 1203.065 of the Penal Code is amended to read:

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1203.065. (a) Notwithstanding any other *provision of* law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who is convicted of violating paragraph (2) *or (6)* of subdivision (a) of Section 261, Section 264.1, 266h, 266i, ~~or~~ 266j, *or 269, paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 286, paragraph (2) or (3) of subdivision (c), or subdivision (d), of Section 288a,* subdivision (a) of Section 289, ~~of committing sodomy or oral copulation in violation of Section 286 or 288a by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person,~~ or ~~of violating~~ subdivision (c) of Section 311.4.

(b)*(1)* Except in unusual cases where the interests of justice would best be served if the person is granted probation, probation shall not be granted to any person who is convicted of ~~a violation of~~ *violating* paragraph (7) of subdivision (a) of Section 261, subdivision (k) of Section 286, subdivision (k) of Section 288a, *subdivision (g) of Section 289,* or Section 220 for assault with intent to commit ~~any of the following: rape, sodomy, oral copulation, or any violation of Section 264.1, subdivision (b) of Section 288, or Section 289~~ *a specified sexual offense.*

(2) When probation is granted, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by the disposition.

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SEC. 16. Section 1203.075 of the Penal Code is amended to read:

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1203.075. ~~Notwithstanding the provisions of Section 1203:~~

(a) ~~Probation~~ *Notwithstanding any other provision of law, probation* shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within this section be stricken pursuant to Section 1385 for, any person who~~, with the intent to inflict the injury,~~ personally inflicts great bodily injury, *as defined in Section 12022.7,* on the person of another in the commission or attempted commission of any of the following crimes:

(1) Murder.

(2) Robbery, in violation of Section 211.

(3) Kidnapping, in violation of Section 207, *209, or 209.5.*

(4) ~~Kidnapping, in violation of Section 209~~ *Lewd or lascivious act, in violation of Section 288.*

(5) Burglary of the first degree, as defined in Section 460.

(6) Rape, in violation of ~~paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of~~ Section *261,* 262, *or 264.1.*

(7) Assault with intent to commit ~~rape or sodomy~~ *a specified sexual offense,* in violation of Section 220.

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(8) Escape, in violation of Section 4530 or 4532.

(9) ~~A~~ *Sexual penetration, in* violation of ~~subdivision (a) of~~ Section 289 *or 264.1.*

(10) Sodomy, in violation of Section 286.

(11) Oral copulation, in violation of Section 288a.

(12) Carjacking, in violation of Section 215.

(13) ~~Kidnapping, in violation of Section 209.5~~ *Continuous sexual abuse of a child, in violation of Section 288.5.*

(14) Aggravated sexual assault of a child, in violation of Section 269.

(b)~~(1)~~ The existence of any fact ~~which~~ *that* would make a person ineligible for probation under subdivision (a) shall be alleged in the accusatory pleading, and either admitted by the defendant in open court, or found to be true by the ~~jury trying the issue of guilt or by the court where guilt is established by a plea of guilty or nolo contendere or by a trial by the court sitting without a jury~~ *trier of fact.*

~~(2) This subdivision does not prohibit the adjournment of criminal proceedings pursuant to Division 3 (commencing with Section 3000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.~~

~~(3) As used in subdivision (a), "great bodily injury" means "great bodily injury" as defined in Section 12022.7.~~

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SEC.17. Section 3000 of the Penal Code is amended to read:

3000. (a)(1) The Legislature finds and declares that the period immediately following incarceration is critical to successful reintegration of the offender into society and to positive citizenship. It is in the interest of public safety for the state to provide for the supervision of and surveillance of parolees, including the judicious use of revocation actions, and to provide educational, vocational, family and personal counseling necessary to assist parolees in the transition between imprisonment and discharge. A sentence pursuant to Section 1168 or 1170 shall include a period of parole, unless waived, as provided in this section.

(2) The Legislature finds and declares that it is not the intent of this section to diminish resources allocated to the Department of Corrections for parole functions for which the department is responsible. It is also not the intent of this section to diminish the resources allocated to the Board of Prison Terms to execute its duties with respect to parole functions for which the board is responsible.

(3) The Legislature finds and declares that diligent effort must be made to ensure that parolees are held accountable for their criminal behavior, including, but not limited to, the satisfaction of restitution fines and orders.

(4) ~~Any finding made pursuant to Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, that a person is~~ *The parole period of any person found to be* a sexually violent predator shall ~~not toll, discharge, or otherwise affect that person's~~ *be tolled until that person is found to no longer be a sexually violent predator, at which time the* period of parole, *or any remaining portion thereof, shall begin to run.*

(b) Notwithstanding any provision to the contrary in Article 3 (commencing with Section 3040) of this chapter, the following shall apply:

(1) At the expiration of a term of imprisonment of one year and one day, or a term of imprisonment imposed pursuant to Section 1170 or at the expiration of a term reduced pursuant to Section 2931 or 2933, if applicable, the inmate shall be released on parole for a period not exceeding three years, except that any inmate sentenced for an offense specified in paragraph (3),

(4), (5), (6), (11), (16), or (18) of subdivision (c) of Section 667.5 shall be released on parole for a period not exceeding five years, unless in either case the parole authority for good cause waives parole and discharges the inmate from the custody of the department.

(2) In the case of any inmate sentenced under Section 1168, the period of parole shall not exceed five years in the case of an inmate imprisoned for any offense other than first or second degree murder for which the inmate has received a life sentence, and shall not exceed three years in the case of any other inmate, unless in either case the parole authority for good cause waives parole and discharges the inmate from custody of the department. This subdivision shall also be applicable to inmates who committed crimes prior to July 1, 1977, to the extent specified in Section 1170.2.

(3) Notwithstanding paragraphs (1) and (2), in the case of any offense for which the inmate has received a life sentence pursuant to Section 667.61 or 667.71, the period of parole shall be ~~five~~ *10* years. ~~Upon the request of the Department of Corrections, and on the grounds that the paroled inmate may pose a substantial danger to public safety, the Board of Prison Terms shall conduct a hearing to determine if the parolee shall be subject to a single additional five-year period of parole. The board shall conduct the hearing pursuant to the procedures and standards governing parole revocation. The request for parole extension shall be made no less than 180 days prior to the expiration of the initial five-year period of parole.~~

(4) The parole authority shall consider the request of any inmate regarding the length of his or her parole and the conditions thereof.

(5) Upon successful completion of parole, or at the end of the maximum statutory period of parole specified for the inmate under paragraph (1), (2), or (3), as the case may be, whichever is earlier, the inmate shall be discharged from custody. The date of the maximum statutory period of parole under this subdivision and paragraphs (1), (2), and (3) shall be computed from the date of initial parole ~~or from the date of extension of parole pursuant to paragraph (3)~~ and shall be a period chronologically determined. Time during which parole is suspended because the prisoner has absconded or has been returned to custody as a parole violator shall not be credited toward any period of parole unless the prisoner is found not guilty of the parole violation. However, ~~in no case, except~~ *the period of parole is subject to the following:*

(A) Except as provided in Section 3064, *in no case* may a prisoner subject to three years on parole be retained under parole supervision or in custody for a period longer than four years from the date of his or her initial ~~parole, and, except~~ *parole.*

(B) Except as provided in Section 3064, in no case may a prisoner subject to five years on parole be retained under parole supervision or in custody for a period longer than seven years from the date of his or her initial parole ~~or from the date of extension of parole pursuant to paragraph (3)~~.

(C) Except as provided in Section 3064, in no case may a prisoner subject to 10 years on parole be retained under parole supervision or in custody for a period longer than 15 years from the date of his or her initial parole.

(6) The Department of Corrections shall meet with each inmate at least 30 days prior to his or her good time release date and shall provide, under guidelines specified by the parole authority, the conditions of parole and the length of parole up to the maximum period of time provided by law. The inmate has the right to reconsideration of the length of parole and conditions thereof by the parole authority. The Department of Corrections or the Board of Prison Terms may impose as a condition of parole that a prisoner make payments on the prisoner's outstanding restitution

fines or orders imposed pursuant to subdivision (a) or (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (b) or (f) of Section 1202.4.

(7) For purposes of this chapter, the Board of Prison Terms shall be considered the parole authority.

(8) The sole authority to issue warrants for the return to actual custody of any state prisoner released on parole rests with the Board of Prison Terms, except for any escaped state prisoner or any state prisoner released prior to his or her scheduled release date who should be returned to custody, and Section 3060 shall apply.

(9) It is the intent of the Legislature that efforts be made with respect to persons who are subject to subparagraph (C) of paragraph (1) of subdivision (a) of Section 290 who are on parole to engage them in treatment.

SEC. 18. Section 3000.07 is added to the Penal Code, to read:

3000.07. (a) Every inmate who has been convicted for any felony violation of a "registerable sex offense" described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290 or any attempt to commit any of the above-mentioned offenses and who is committed to prison and released on parole pursuant to Section 3000 or 3000.1 shall be monitored by a global positioning system for the term of his or her parole, or for the duration or any remaining part thereof, whichever period of time is less.

(b) Any inmate released on parole pursuant to this section shall be required to pay for the costs associated with the monitoring by a global positioning system. However, the Department of Corrections shall waive any or all of that payment upon a finding of an inability to pay. The department shall consider any remaining amounts the inmate has been ordered to pay in fines, assessments and restitution fines, fees, and orders, and shall give priority to the payment of those items before requiring that the inmate pay for the global positioning monitoring. No inmate shall be denied parole on the basis of his or her inability to pay for those monitoring costs.

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SEC. 19. Section 3001 of the Penal Code is amended to read:

3001. (a) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was not imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison, and has been on parole continuously for one year since release from confinement, within 30 days, that person shall be discharged from parole, unless the Department of Corrections recommends to the Board of Prison Terms that the person be retained on parole and the board, for good cause, determines that the person will be retained. Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (b) of Section 3000 who was imprisoned for committing a violent felony, as defined in subdivision (c) of Section 667.5, has been released on parole from the state prison for a period not exceeding three years and has been on parole continuously for two years since release from confinement, or has been released on parole from the state prison for a period not exceeding five years and has been on parole continuously for three years since release from confinement, the department shall discharge, within 30 days, that person from parole, unless the department recommends to the board that the person be retained on parole and the board, for good cause, determines that the person will be retained. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (2) ~~or (3)~~ of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for three years since release from confinement ~~or since extension of parole~~, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.

(c) *Notwithstanding any other provision of law, when any person referred to in paragraph (3) of subdivision (b) of Section 3000 has been released on parole from the state prison, and has been on parole continuously for six years since release from confinement, the board shall discharge, within 30 days, the person from parole, unless the board, for good cause, determines that the person will be retained on parole. The board shall make a written record of its determination and the department shall transmit a copy thereof to the parolee.*

(d) In the event of a retention on parole, the parolee shall be entitled to a review by the parole authority each year thereafter until the maximum statutory period of parole has expired.

~~(d)~~ *(e)* The amendments to this section made during the 1987-88 Regular Session of the Legislature shall only be applied prospectively and shall not extend the parole period for any person whose eligibility for discharge from parole was fixed as of the effective date of those amendments.

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SEC. 20. Section 3003 of the Penal Code is amended to read:

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3003. (a) Except as otherwise provided in this section, an inmate who is released on parole shall be returned to the county that was the last legal residence of the inmate prior to his or her incarceration.

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For purposes of this subdivision, "last legal residence" shall not be construed to mean the county wherein the inmate committed an offense while confined in a state prison or local jail facility or while confined for treatment in a state hospital.

(b) Notwithstanding subdivision (a), an inmate may be returned to another county if that would be in the best interests of the public.

If the Board of Prison Terms setting the conditions of parole for inmates sentenced pursuant to subdivision (b) of Section 1168, as determined by the parole consideration panel, or the Department of Corrections setting the conditions of parole for inmates sentenced pursuant to Section 1170, decides on a return to another county, it shall place its reasons in writing in the parolee's permanent record and include these reasons in the notice to the sheriff or chief of police pursuant to Section 3058.6. In making its decision, the paroling authority shall consider, among others, the following factors, giving the greatest weight to the protection of the victim and the safety of the community:

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(1) The need to protect the life or safety of a victim, the parolee, a witness, or any other person.

(2) Public concern that would reduce the chance that the inmate's parole would be successfully completed.

(3) The verified existence of a work offer, or an educational or vocational training program.

(4) The existence of family in another county with whom the inmate has maintained strong ties and whose support would increase the chance that the inmate's parole would be successfully completed.

(5) The lack of necessary outpatient treatment programs for parolees receiving treatment pursuant to Section 2960.

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(c) The Department of Corrections, in determining an out-of-county commitment, shall give priority to the safety of the community and any witnesses and victims.

(d) In making its decision about an inmate who participated in a joint venture program pursuant to Article 1.5 (commencing with Section 2717.1) of Chapter 5, the paroling authority shall give serious consideration to releasing him or her to the county where the joint venture program employer is located if that employer states to the paroling authority that he or she intends to employ the inmate upon release.

(e)(1) The following information, if available, shall be released by the Department of Corrections to local law enforcement agencies regarding a paroled inmate who is released in their jurisdictions:

(A) Last, first, and middle name.

(B) Birth date.

(C) Sex, race, height, weight, and hair and eye color.

(D) Date of parole and discharge.

(E) Registration status, if the inmate is required to register as a result of a controlled substance, sex, or arson offense.

(F) California Criminal Information Number, FBI number, social security number, and driver's license number.

(G) County of commitment.

(H) A description of scars, marks, and tattoos on the inmate.

(I) Offense or offenses for which the inmate was convicted that resulted in parole in this instance.

(J) Address, including all of the following information:

(i) Street name and number. Post office box numbers are not acceptable for purposes of this subparagraph.

(ii) City and ZIP Code.

(iii) Date that the address provided pursuant to this subparagraph was proposed to be effective.

(K) Contact officer and unit, including all of the following information:

(i) Name and telephone number of each contact officer.

(ii) Contact unit type of each contact officer such as units responsible for parole, registration, or county probation.

(L) A digitized image of the photograph and at least a single digit fingerprint of the parolee.

(M) A geographic coordinate for the parolee's residence location for use with a Geographical Information System (GIS) or comparable computer program.

(2) The information required by this subdivision shall come from the statewide parolee database. The information obtained from each source shall be based on the same timeframe.

(3) All of the information required by this subdivision shall be provided utilizing a computer-to-computer transfer in a format usable by a desktop computer system. The transfer of this information shall be continually available to local law enforcement agencies upon request.

(4) The unauthorized release or receipt of the information described in this subdivision is a violation of Section 11143.

(f) Notwithstanding any other provision of law, an inmate who is released on parole shall not be returned to a location within 35 miles of the actual residence of a victim of, or a witness to, a violent felony as defined in paragraphs (1) to (7), inclusive, of subdivision (c) of Section 667.5 or a felony in which the defendant inflicts great bodily injury on any person other than an accomplice that has been charged and proved as provided for in Section 12022.53, 12022.7, or

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(1)

12022.9, if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of a victim or witness.

(g) ~~Notwithstanding any other law, an inmate who is released on parole for any violation of Section 288 or 288.5 shall not be placed or reside, for the duration of his or her period of parole, within one-quarter mile of any public or private school, including any or all of kindergarten and grades 1 to 8, inclusive.~~

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~~(h)~~ Notwithstanding any other law, an inmate who is released on parole for an offense involving stalking shall not be returned to a location within 35 miles of the victim's actual residence or place of employment if the victim or witness has requested additional distance in the placement of the inmate on parole, and if the Board of Prison Terms or the Department of Corrections finds that there is a need to protect the life, safety, or well-being of the victim.

~~(i)~~ *(h)* The authority shall give consideration to the equitable distribution of parolees and the proportion of out-of-county commitments from a county compared to the number of commitments from that county when making parole decisions.

~~(j)~~ *(i)* An inmate may be paroled to another state pursuant to any other law.

~~(k)~~ *(j)*(1) Except as provided in paragraph (2), the Department of Corrections shall be the agency primarily responsible for, and shall have control over, the program, resources, and staff implementing the Law Enforcement Automated Data System (LEADS) in conformance with subdivision (e).

(2) Notwithstanding paragraph (1), the Department of Justice shall be the agency primarily responsible for the proper release of information under LEADS that relates to fingerprint cards.

CRH/CAP 1998 550 2

SEC. 21. Section 3003.5 of the Penal Code is amended to read:

3003.5. *(a)* Notwithstanding any other provision of law, when a person is released on parole after having served a term of imprisonment in state prison for any offense for which registration is required pursuant to Section 290, that person may not, during the period of parole, reside in any single family dwelling with any other person also required to register pursuant to Section 290, unless those persons are legally related by blood, marriage, or adoption. For purposes of this section, "single family dwelling" shall not include a residential facility which serves six or fewer persons.

(b) Notwithstanding any other provision of law, it is unlawful for any person for whom registration is required pursuant to Section 290 to reside within 2000 feet of any public or private school, or park where children regularly gather.

(c) Nothing in this section shall prohibit municipal jurisdictions from enacting local ordinances that further restrict the residency of any person for whom registration is required pursuant to Section 290.

CRH/CAP 1992 695 14

SEC. 22. Section 3004 of the Penal Code is amended to read:

3004. *(a)* Notwithstanding any other law, the parole authority may require, as a condition of release on parole or reinstatement on parole, or as an intermediate sanction in lieu of return to prison, that an inmate or parolee agree in writing to the use of electronic monitoring or supervising devices for the purpose of helping to verify his or her compliance with all other conditions of parole. The devices shall not be used to eavesdrop or record any conversation, except a conversation between the parolee and the agent supervising the parolee which is to be used solely for the purposes of voice identification.

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(2) Notwithstanding any other law, an inmate who is released on parole for a violation of Section 288 or 288.5 whom the Department of Corrections and Rehabilitation determines poses a high risk to the public shall not be placed or reside, for the duration of his or her parole, within one-half mile of any public or private school including any or all of kindergarten and grades 1 to 12, inclusive.

(b) Every inmate who has been convicted for any felony violation of a "registerable sex offense" described in subparagraph (A) of paragraph (2) of subdivision (a) of Section 290 or any attempt to commit any of the above-mentioned offenses and who is committed to prison and released on parole pursuant to Section 3000 or 3000.1 shall be monitored by a global positioning system for life.

(c) Any inmate released on parole pursuant to this section shall be required to pay for the costs associated with the monitoring by a global positioning system. However, the Department of Corrections shall waive any or all of that payment upon a finding of an inability to pay. The department shall consider any remaining amounts the inmate has been ordered to pay in fines, assessments and restitution fines, fees, and orders, and shall give priority to the payment of those items before requiring that the inmate pay for the global positioning monitoring.

CRH / CAP

1987 / 706 / 5

SEC. 23. Section 12022.75 of the Penal Code is amended to read:

12022.75. ~~Any~~ *(a) Except as provided in subdivision (b), any* person who, for the purpose of committing a felony, administers by injection, inhalation, ingestion, or any other means, any controlled substance listed in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code, against the victim's will by means of force, violence, or fear of immediate and unlawful bodily injury to the victim or another person, shall, in addition and consecutive to the penalty provided for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of three years.

(b)(1) Any person who, in the commission or attempted commission of any offense specified in paragraph (2), administers any controlled substance listed in Section 11054, 11055, 11056, 11057, or 11058 of the Health and Safety Code to the victim shall be punished by an additional and consecutive term of imprisonment in the state prison for five years.

(2) This subdivision shall apply to the following offenses:

(A) Rape, in violation of paragraph (3) or (4) of subdivision (a) of Section 261.

(B) Sodomy, in violation of subdivision (f) or (i) of Section 286.

(C) Oral copulation, in violation of subdivision (f) or (i) of Section 288a.

(D) Sexual penetration, in violation of subdivision (d) or (e) of Section 289.

(E) Any offense specified in subdivision (c) of Section 667.61.

CRH / CAP

2000 / 643 / 1

SEC. 24. Section 6600 of the Welfare and Institutions Code is amended to read:

6600. As used in this article, the following terms have the following meanings:

(a)(1) "Sexually violent predator" means a person who has been convicted of a sexually violent offense against ~~two~~ *one* or more victims and who has a diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(2) For purposes of this subdivision any of the following shall be considered a conviction for a sexually violent offense:

(A) A prior or current conviction that resulted in a determinate prison sentence for an offense described in subdivision (b).

(B) A conviction for an offense described in subdivision (b) that was committed prior to July 1, 1977, and that resulted in an indeterminate prison sentence.

(C) A prior conviction in another jurisdiction for an offense that includes all of the elements of an offense described in subdivision (b).

SUBJECT TO COURT ORDERED CHANGES

(D) A conviction for an offense under a predecessor statute that includes all of the elements of an offense described in subdivision (b).

(E) A prior conviction for which the inmate received a grant of probation for an offense described in subdivision (b).

(F) A prior finding of not guilty by reason of insanity for an offense described in subdivision (b).

(G) A conviction resulting in a finding that the person was a mentally disordered sex offender.

(H) A prior conviction for an offense described in subdivision (b) for which the person was committed to the Department of the Youth Authority pursuant to Section 1731.5.

(I) A prior conviction for an offense described in subdivision (b) that resulted in an indeterminate prison sentence.

(3) Conviction of one or more of the crimes enumerated in this section shall constitute evidence that may support a court or jury determination that a person is a sexually violent predator, but shall not be the sole basis for the determination. The existence of any prior convictions may be shown with documentary evidence. The details underlying the commission of an offense that led to a prior conviction, including a predatory relationship with the victim, may be shown by documentary evidence, including, but not limited to, preliminary hearing transcripts, trial transcripts, probation and sentencing reports, and evaluations by the State Department of Mental Health. Jurors shall be admonished that they may not find a person a sexually violent predator based on prior offenses absent relevant evidence of a currently diagnosed mental disorder that makes the person a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior.

(4) The provisions of this section shall apply to any person against whom proceedings were initiated for commitment as a sexually violent predator on or after January 1, 1996.

(b) "Sexually violent offense" means the following acts when committed by force, violence, duress, menace, ~~or~~ fear of immediate and unlawful bodily injury on the victim or another person, *or threatening to retaliate in the future against the victim or any other person,* and that are committed on, before, or after the effective date of this article and result in a conviction or a finding of not guilty by reason of insanity, as ~~provided~~ *defined* in subdivision (a): a felony violation of ~~paragraph (2) of subdivision (a) of~~ Section 261, ~~paragraph (1) of subdivision (a) of Section~~ 262, ~~Section~~ 264.1, *269, 286,* ~~subdivision (a) or (b) of Section~~ 288, *288a, 288.5,* or ~~subdivision (a) of Section~~ 289 of the Penal Code, or ~~sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code~~ *any felony violation of Section 207, 209, or 220 of the Penal Code, committed with the intent to commit a violation of Section 261, 262, 264.1, 286, 288, 288a, or 289 of the Penal Code.*

(c) "Diagnosed mental disorder" includes a congenital or acquired condition affecting the emotional or volitional capacity that predisposes the person to the commission of criminal sexual acts in a degree constituting the person a menace to the health and safety of others.

(d) "Danger to the health and safety of others" does not require proof of a recent overt act while the offender is in custody.

(e) "Predatory" means an act is directed toward a stranger, a person of casual acquaintance with whom no substantial relationship exists, or an individual with whom a relationship has been established or promoted for the primary purpose of victimization.

(f) "Recent overt act" means any criminal act that manifests a likelihood that the actor may engage in sexually violent predatory criminal behavior.

SUBJECT TO COURT ORDERED CHANGES

(g) Notwithstanding any other provision of law and for purposes of this section, ~~no more than one~~ *a* prior juvenile adjudication of a sexually violent offense may constitute a prior conviction for which the person received a determinate term if all of the following ~~applies~~ *apply*:

(1) The juvenile was 16 years of age or older at the time he or she committed the prior offense.

(2) The prior offense is a sexually violent offense as specified in subdivision (b). ~~Notwithstanding Section 6600.1, only an offense described in subdivision (b) shall constitute a sexually violent offense for purposes of this subdivision.~~

(3) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 because of the person's commission of the offense giving rise to the juvenile court adjudication.

(4) The juvenile was committed to the Department of the Youth Authority for the sexually violent offense.

(h) A minor adjudged a ward of the court for commission of an offense that is defined as a sexually violent offense shall be entitled to specific treatment as a sexual offender. The failure of a minor to receive that treatment shall not constitute a defense or bar to a determination that any person is a sexually violent predator within the meaning of this article.

CALIFORNIA

SEC. 25. Section 6600.1 of the Welfare and Institutions Code is amended to read:

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6600.1. ~~(a)~~ If the victim of an underlying offense that is specified in subdivision (b) of Section 6600 is a child under the age of 14 ~~and the offending act or acts involved substantial sexual conduct~~, the offense shall constitute a "sexually violent offense" for purposes of Section 6600.

~~(b) "Substantial sexual conduct" means penetration of the vagina or rectum of either the victim or the offender by the penis of the other or by any foreign object, oral copulation, or masturbation of either the victim or the offender.~~

SEC. 26. Section ~~6001~~ 6601 of the Welfare and Institutions Code is amended to read:

6601. (a)(1) Whenever the Director of Corrections determines that an individual who is in custody under the jurisdiction of the Department of Corrections, and who is either serving a determinate prison sentence or whose parole has been revoked, may be a sexually violent predator, the director shall, at least six months prior to that individual's scheduled date for release from prison, refer the person for evaluation in accordance with this section. However, if the inmate was received by the department with less than nine months of his or her sentence to serve, or if the inmate's release date is modified by judicial or administrative action, the director may refer the person for evaluation in accordance with this section at a date that is less than six months prior to the inmate's scheduled release date.

1999 136 1

(2) A petition may be filed under this section if the individual was in custody pursuant to his or her determinate prison term, parole revocation term, or a hold placed pursuant to Section 6601.3, at the time the petition is filed. A petition shall not be dismissed on the basis of a later judicial or administrative determination that the individual's custody was unlawful, if the unlawful custody was the result of a good faith mistake of fact or law. This paragraph shall apply to any petition filed on or after January 1, 1996.

(b) The person shall be screened by the Department of Corrections and the Board of Prison Terms based on whether the person has committed a sexually violent predatory offense and on a review of the person's social, criminal, and institutional history. This screening shall be conducted in accordance with a structured screening instrument developed and updated by the State Department of Mental Health in consultation with the Department of Corrections. If as a

result of this screening it is determined that the person is likely to be a sexually violent predator, the Department of Corrections shall refer the person to the State Department of Mental Health for a full evaluation of whether the person meets the criteria in Section 6600.

(c) The State Department of Mental Health shall evaluate the person in accordance with a standardized assessment protocol, developed and updated by the State Department of Mental Health, to determine whether the person is a sexually violent predator as defined in this article. The standardized assessment protocol shall require assessment of diagnosable mental disorders, as well as various factors known to be associated with the risk of reoffense among sex offenders. Risk factors to be considered shall include criminal and psychosexual history, type, degree, and duration of sexual deviance, and severity of mental disorder.

(d) Pursuant to subdivision (c), the person shall be evaluated by two practicing psychiatrists or psychologists, or one practicing psychiatrist and one practicing psychologist, designated by the Director of Mental Health. If both evaluators concur that the person has a diagnosed mental disorder so that he or she is likely to engage in acts of sexual violence without appropriate treatment and custody, the Director of Mental Health shall forward a request for a petition for commitment under Section 6602 to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment.

(e) If one of the professionals performing the evaluation pursuant to subdivision (d) does not concur that the person meets the criteria specified in subdivision (d), but the other professional concludes that the person meets those criteria, the Director of Mental Health shall arrange for further examination of the person by two independent professionals selected in accordance with subdivision (g).

(f) If an examination by independent professionals pursuant to subdivision (e) is conducted, a petition to request commitment under this article shall only be filed if both independent professionals who evaluate the person pursuant to subdivision (e) concur that the person meets the criteria for commitment specified in subdivision (d). The professionals selected to evaluate the person pursuant to subdivision (g) shall inform the person that the purpose of their examination is not treatment but to determine if the person meets certain criteria to be involuntarily committed pursuant to this article. It is not required that the person appreciate or understand that information.

(g) Any independent professional who is designated by the Director of Corrections or the Director of Mental Health for purposes of this section shall not be a state government employee, shall have at least five years of experience in the diagnosis and treatment of mental disorders, and shall include psychiatrists and licensed psychologists who have a doctoral degree in psychology. The requirements set forth in this section also shall apply to any professionals appointed by the court to evaluate the person for purposes of any other proceedings under this article.

(h) If the State Department of Mental Health determines that the person is a sexually violent predator as defined in this article, the Director of Mental Health shall forward a request for a petition to be filed for commitment under this article to the county designated in subdivision (i). Copies of the evaluation reports and any other supporting documents shall be made available to the attorney designated by the county pursuant to subdivision (i) who may file a petition for commitment in the superior court.

(i) If the county's designated counsel concurs with the recommendation, a petition for commitment shall be filed in the superior court of the county in which the person was convicted

of the offense for which he or she was committed to the jurisdiction of the Department of Corrections. The petition shall be filed, and the proceedings shall be handled, by either the district attorney or the county counsel of that county. The county board of supervisors shall designate either the district attorney or the county counsel to assume responsibility for proceedings under this article.

(j) The time limits set forth in this section shall not apply during the first year that this article is operative.

(k) If the person is otherwise subject to parole, a finding or placement made pursuant to this article shall ~~not~~ toll~~, discharge, or otherwise affect~~ the term of parole pursuant to Article 1 (commencing with Section 3000) of Chapter 8 of Title 1 of Part 3 of the Penal Code.

(l) Pursuant to subdivision (d), the attorney designated by the county pursuant to subdivision (i) shall notify the State Department of Mental Health of its decision regarding the filing of a petition for commitment within 15 days of making that decision.

2000 — 420 — 3

SEC. 27. Section 6604 of the Welfare and Institutions Code is amended to read:

6604. The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct that the person be released at the conclusion of the term for which he or she was initially sentenced, or that the person be unconditionally released at the end of parole, whichever is applicable. If the court or jury determines that the person is a sexually violent predator, the person shall be committed for ~~two years~~ *an indeterminate term* to the custody of the State Department of Mental Health for appropriate treatment and confinement in a secure facility designated by the Director of Mental Health~~, and the person shall not be kept in actual custody longer than two years unless a subsequent extended commitment is obtained from the court incident to the filing of a petition for extended commitment under this article or unless the term of commitment changes pursuant to subdivision (e) of Section 6605. Time spent on conditional release shall not count toward the two-year term of commitment, unless the person is placed in a locked facility by the conditional release program, in which case the time in a locked facility shall count toward the two-year term of commitment~~. The facility shall be located on the grounds of an institution under the jurisdiction of the Department of Corrections.

2000 — 420 — 4

SEC. 28. Section 6604.1 of the Welfare and Institutions Code is amended to read:

6604.1. (a) The ~~two-year~~ *indeterminate* term of commitment provided for in Section 6604 shall commence on the date upon which the court issues the initial order of commitment pursuant to that section. ~~The initial two-year term shall not be reduced by any time spent in a secure facility prior to the order of commitment. For any subsequent extended commitments, the term of commitment shall be for two years commencing from the date of the termination of the previous commitment.~~

(b) The person shall be evaluated by two practicing psychologists or psychiatrists, or by one practicing psychologist and one practicing psychiatrist, designated by the State Department of Mental Health. The provisions of subdivisions (c) to (i), inclusive, of Section 6601 shall apply to evaluations performed for purposes of extended commitments. The rights, requirements, and procedures set forth in Section 6603 shall apply to ~~extended~~ *all* commitment proceedings.

SEC. 29. Section 6605 of the Welfare and Institutions Code is amended to read:

1995 — 763

6605. (a) A person found to be a sexually violent predator and committed to the custody of the State Department of Mental Health shall have a current examination of his or her mental condition made at least once every year. *The annual report shall include consideration of whether the committed person currently meets the definition of a sexually violent predator and whether conditional release to a less restrictive alternative or an unconditional release is in the best interest of the person and conditions can be imposed that would adequately protect the community. The Department of Mental Health shall file this periodic report with the court that committed the person under this article. The report shall be in the form of a declaration and shall be prepared by a professionally qualified person. A copy of the report shall be served on the prosecuting agency involved in the initial commitment and upon the committed person.* The person may retain, or if he or she is indigent and so requests, the court may appoint, a qualified expert or professional person to examine him or her, and the expert or professional person shall have access to all records concerning the person.

(b) ~~The director shall provide the committed person with an annual written notice of his or her right to petition the court for conditional release under Section 6608. The notice shall contain a waiver of rights. The director shall forward the notice and waiver form to the court with the annual report. If the person does not affirmatively waive his or her right to petition the court for conditional release, the court shall set a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that he or she would not be a danger to the health and safety of others if discharged. The committed person shall have the right to be present and to have an attorney represent him or her at the show cause hearing.~~ *If the Department of Mental Health determines that either: (1) the person's condition has so changed that the person no longer meets the definition of a sexually violent predator, or (2) conditional release to a less restrictive alternative is in the best interest of the person and conditions can be imposed that adequately protect the community, the director shall authorize the person to petition the court for conditional release to a less restrictive alternative or for an unconditional discharge. The petition shall be filed with the court and served upon the prosecuting agency responsible for the initial commitment. The court, upon receipt of the petition for conditional release to a less restrictive alternative or unconditional discharge, shall order a show cause hearing at which the court can consider the petition and any accompanying documentation provided by the medical director, the prosecuting attorney or the committed person.*

(c) If the court at the show cause hearing determines that probable cause exists to believe that the committed person's diagnosed mental disorder has so changed that he or she is not a danger to the health and safety of others and is not likely to engage in sexually violent criminal behavior if discharged, then the court shall set a hearing on the issue.

(d) At the hearing, the committed person shall have the right to be present and shall be entitled to the benefit of all constitutional protections that were afforded to him or her at the initial commitment proceeding. The attorney designated by the county pursuant to subdivision (i) of Section 6601 shall represent the state and shall have the right to demand a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person also shall have the right to demand a jury trial and to have experts evaluate him or her on his or her behalf. The court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be on the state to prove beyond a reasonable doubt that the committed person's diagnosed mental disorder remains such that he or she is a danger to the health and safety of others and is likely to engage in sexually violent criminal behavior if discharged.

(e) If the court or jury rules against the committed person at the hearing conducted pursuant to subdivision (d), the term of commitment of the person shall run for a *an indeterminate* period ~~of two years~~ from the date of this ruling. If the court or jury rules for the committed person, he or she shall be unconditionally released and unconditionally discharged.

(f) In the event that the State Department of Mental Health has reason to believe that a person committed to it as a sexually violent predator is no longer a sexually violent predator, it shall seek judicial review of the person's commitment pursuant to the procedures set forth in Section 7250 in the superior court from which the commitment was made. If the superior court determines that the person is no longer a sexually violent predator, he or she shall be unconditionally released and unconditionally discharged.

SEC. 30. Section 6608 of the Welfare and Institutions Code is amended to read: 1995

6608. (a) Nothing in this article shall prohibit the person who has been committed as a sexually violent predator from petitioning the court for conditional release ~~and subsequent~~ *or an* unconditional discharge without the recommendation or concurrence of the Director of Mental Health. If a person has previously filed a petition for conditional release without the concurrence of the director and the court determined, either upon review of the petition or following a hearing, that the petition was frivolous or that the committed person's condition had not so changed that he or she would not be a danger to others in that it is not likely that he or she will engage in sexually violent criminal behavior if placed under supervision and treatment in the community, then the court shall deny the subsequent petition unless it contains facts upon which a court could find that the condition of the committed person had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from a committed person without the concurrence of the director, the court shall endeavor whenever possible to review the petition and determine if it is based upon frivolous grounds and, if so, shall deny the petition without a hearing. The person petitioning for conditional release and unconditional discharge under this subdivision shall be entitled to assistance of counsel. 743/3

(b) The court shall give notice of the hearing date to the attorney designated in subdivision (i) of Section 6601, the retained or appointed attorney for the committed person, and the Director of Mental Health at least 15 court days before the hearing date.

(c) No hearing upon the petition shall be held until the person who is committed has been under commitment for confinement and care in a facility designated by the Director of Mental Health for not less than one year from the date of the order of commitment.

(d) The court shall hold a hearing to determine whether the person committed would be a danger to the health and safety of others in that it is likely that he or she will engage in sexually violent criminal behavior due to his or her diagnosed mental disorder if under supervision and treatment in the community. If the court at the hearing determines that the committed person would not be a danger to others due to his or her diagnosed mental disorder while under supervision and treatment in the community, the court shall order the committed person placed with an appropriate forensic conditional release program operated by the state for one year. A substantial portion of the state-operated forensic conditional release program shall include outpatient supervision and treatment. The court shall retain jurisdiction of the person throughout the course of the program. At the end of one year, the court shall hold a hearing to determine if the person should be unconditionally released from commitment on the basis that, by reason of a diagnosed mental disorder, he or she is not a danger to the health and safety of others in that it is not likely that he or she will engage in sexually violent criminal behavior. The court shall not

make this determination until the person has completed at least one year in the state-operated forensic conditional release program. The court shall notify the Director of Mental Health of the hearing date.

(e) Before placing a committed person in a state-operated forensic conditional release program, the community program director designated by the State Department of Mental Health shall submit a written recommendation to the court stating which forensic conditional release program is most appropriate for supervising and treating the committed person. If the court does not accept the community program director's recommendation, the court shall specify the reason or reasons for its order on the record. The procedures described in Sections 1605 to 1610, inclusive, of the Penal Code shall apply to the person placed in the forensic conditional release program.

(f) If the court determines that the person should be transferred to a state-operated forensic conditional release program, the community program director, or his or her designee, shall make the necessary placement arrangements and, within 21 days after receiving notice of the court's finding, the person shall be placed in the community in accordance with the treatment and supervision plan unless good cause for not doing so is presented to the court.

(g) If the court rules against the committed person at the trial for unconditional release from commitment, the court may place the committed person on outpatient status in accordance with the procedures described in Title 15 (commencing with Section 1600) of Part 2 of the Penal Code.

(h) If the court denies the petition to place the person in an appropriate forensic conditional release program or if the petition for unconditional discharge is denied, the person may not file a new application until one year has elapsed from the date of the denial.

(i) In any hearing authorized by this section, the petitioner shall have the burden of proof by a preponderance of the evidence.

(j) If the petition for conditional release is not made by the director of the treatment facility to which the person is committed, no action on the petition shall be taken by the court without first obtaining the written recommendation of the director of the treatment facility.

(k) Time spent in a conditional release program pursuant to this section shall not count toward the term of commitment under this article unless the person is confined in a locked facility by the conditional release program, in which case the time spent in a locked facility shall count toward the term of commitment.

SEC. 31. Intent Clause

It is the intent of the People of the State of California in enacting this measure to strengthen and improve the laws that punish and control sexual offenders. It is also the intent of the People of the State of California that if any provision in this act conflicts with any other provision of law that provides for a greater penalty or longer period of imprisonment that the latter provision shall apply.

SEC. 32. Severability Clause

If any provision of this act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 33. Amendment Clause

The provisions of this act shall not be amended by the Legislature except by a statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters. However, the Legislature may amend the provisions of this act to expand the scope of their application or to increase the punishments or penalties provided herein by a statute passed by majority vote of each house thereof.

SUBJECT TO COURT ORDERED CHANGES

TEXT OF PROPOSITION 84

SUBJECT TO COURT
ORDERED CHANGES

PROP. 84

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8, of the California Constitution.

This initiative measure adds sections to the ~~Health and Safety~~ Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SUBJECT TO COURT ORDERED CHANGES

SA2005RF0131

Section 1. Division 43 is added to the Public Resources Code, to read:

Division 43. THE SAFE DRINKING WATER, WATER QUALITY AND SUPPLY, FLOOD CONTROL, RIVER AND COASTAL PROTECTION BOND ACT OF 2006

Chapter 1. General Provisions

75001. This Division shall be known and may be cited as the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006.

75002. The people of California find and declare that protecting the state's drinking water and water resources is vital to the public health, the state's economy, and the environment.

75002.5. The people of California further find and declare that the state's waters are vulnerable to contamination by dangerous bacteria, polluted runoff, toxic chemicals, damage from catastrophic floods and the demands of a growing population. Therefore, actions must be taken to ensure safe drinking water and a reliable supply of water for farms, cities and businesses, as well as to protect California's rivers, lakes, streams, beaches, bays and coastal waters, for this and future generations.

75003. The people of California further find and declare that it is necessary and in the public interest to do all of the following:

(a) Ensure that safe drinking water is available to all Californians by:

(1) Providing for emergency assistance to communities with contaminated sources of drinking water.

(2) Assisting small communities in making the improvements needed in their water systems to clean up and protect their drinking water from contamination.

(3) Providing grants and loans for safe drinking water and water pollution prevention projects.

(4) Protecting the water quality of the Sacramento-San Joaquin Delta, a key source of drinking water for 23 million Californians.

(5) Assisting each region of the state in improving local water supply reliability and water quality.

(6) Resolving water-related conflicts, improving local and regional water self-sufficiency and reducing reliance on imported water.

(b) Protect the pubic from catastrophic floods by identifying and mapping the areas most at risk, inspecting and repairing levees and flood control facilities, and reducing the long-term costs of flood management, reducing future flood risk and maximizing public benefits by planning, designing and implementing multi-objective flood corridor projects.

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(c) Protect the rivers, lakes and streams of the state from pollution, loss of water quality, and destruction of fish and wildlife habitat.

(d) Protect the beaches, bays and coastal waters of the state for future generations.

(e) Revitalizing our communities and making them more sustainable and livable by investing in sound land use planning, local parks and urban greening.

75003.5. The people of California further find and declare that the growth in population of the state and the impacts of climate change pose significant challenges. These challenges must be addressed through careful planning and through improvements in land use and water management that both reduce contributions to global warming and improve the adaptability of our water and flood control systems. Improvements include better integration of water supply, water quality, flood control and ecosystem protection, as well greater water use efficiency and conservation to reduce energy consumption.

75004. It is the intent of the people that investment of public funds pursuant to this division should result in public benefits.

75005. As used in this division, the following terms have the following meanings:

(a) "Acquisition" means the acquisition of a fee interest or any other interest in real property including easements, leases and development rights.

(b) "Board" means the Wildlife Conservation Board.

(c) "California Water Plan" means the California Water Plan Update Bulletin 160-05 and subsequent revisions and amendments.

(d) "Delta" means the Sacramento-San Joaquin River delta.

(e) "Department" means the Department of Water Resources.

(f) "Development" includes, but is not limited to the physical improvement of real property including the construction of facilities or structures.

(g) "Disadvantaged community" means a community with a median household income less than 80% of the statewide average. "Severely disadvantaged community" means a community with a median household income less than 60% of the statewide average.

(h) "Fund" means the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006.

(i) "Interpretation" includes, but is not limited to, a visitor serving amenity that educates and communicates the significance and value of natural, historical, and cultural resources in a way that increases the understanding and enjoyment of these resources and that may utilize the expertise of a naturalist or other specialist skilled at educational interpretation.

(j) "Local conservation corps" means a program operated by a public agency or nonprofit organization that meets the requirements of Section 14406.

(k) "Nonprofit organization" means any nonprofit corporation qualified to do business in California, and qualified under Section 501(c)(3) of the Internal Revenue Code.

(l) "Preservation" means rehabilitation, stabilization, restoration, development, and reconstruction, or any combination of those activities.

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(m) "Protection" means those actions necessary to prevent harm or damage to persons, property or natural resources or those actions necessary to allow the continued use and enjoyment of property or natural resources and includes acquisition, development, restoration, preservation and interpretation.

(n) "Restoration" means the improvement of physical structures or facilities and, in the case of natural systems and landscape features includes, but is not limited to, projects for the control of erosion, the control and elimination of exotic species, prescribed burning, fuel hazard reduction, fencing out threats to existing or restored natural resources, road elimination, and other plant and wildlife habitat improvement to increase the natural system value of the property. Restoration projects shall include the planning, monitoring and reporting necessary to ensure successful implementation of the project objectives.

(o) "Secretary" means the Secretary of the Resources Agency.

(p) "State Board" means the State Water Resources Control Board.

75009. The proceeds of bonds issued and sold pursuant to this division shall be deposited in the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006, which is hereby created. Except as specifically provided in this division the money shall be available for appropriation by the Legislature, in the manner and for the purposes set forth in this division in accordance with the following schedule:

(a) The sum of one billion five hundred twenty five million dollars ($1,525,000,000) for safe drinking water, water quality and other water projects in accordance with the provisions of Chapter 2.

(b) The sum of eight hundred million dollars ($800,000,000) for flood control projects in accordance with the provisions of Chapter 3.

(c) The sum of sixty five million dollars ($65,000,000) for statewide water management in accordance with the provisions of Chapter 4.

(d) The sum of nine hundred twenty eight million dollars ($928,000,000) for the protection of rivers, lakes and streams in accordance with the provisions of Chapter 5.

(e) The sum of four hundred fifty million dollars ($450,000,000) for forest and wildlife conservation in accordance with the provisions of Chapter 6.

(f) The sum of five hundred forty million dollars ($540,000,000) for the protection of beaches, bays, and coastal waters and watersheds in accordance with the provisions of Chapter 7.

(g) The sum of five hundred million dollars ($500,000,000) for state parks and nature education facilities in accordance with Chapter 8.

(h) The sum of five hundred eighty million dollars ($580,000,000) for sustainable communities and climate change reduction projects in accordance with Chapter 9.

Chapter 2. Safe Drinking Water and Water Quality Projects

75020. This chapter is intended to provide the funds necessary to address the most critical water needs of the state including the provision of safe drinking water to all

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Californians, the protection of water quality and the environment, and the improvement of water supply reliability.

75021. (a) The sum of ten million dollars ($10,000,000) shall be available to the Department of Health Services for grants and direct expenditures to fund emergency and urgent actions to ensure that safe drinking water supplies are available to all Californians. Eligible projects include, but are not limited to, the following:

(1) Providing alternate water supplies including bottled water where necessary to protect public health.

(2) Improvements in existing water systems necessary to prevent contamination or provide other sources of safe drinking water including replacement wells.

(3) Establishing connections to an adjacent water system.

(4) Design, purchase, installation and initial operation costs for water treatment equipment and systems.

(b) Grants and expenditures shall not exceed $250,000 per project.

(c) Direct expenditures for the purposes of this section shall be exempt from contracting and procurement requirements to the extent necessary to take immediate action to protect public health and safety.

75022. The sum of one hundred eighty million dollars ($180,000,000) shall be available to the Department of Health Services for grants for small community drinking water system infrastructure improvements and related actions to meet safe drinking water standards. Priority shall be given to projects that address chemical and nitrate contaminants, other health hazards and by whether the community is disadvantaged or severely disadvantaged. Special consideration shall be given to small communities with limited financial resources. Eligible recipients include public agencies and incorporated mutual water companies that serve disadvantaged communities. The Department of Health Services may make grants for the purpose of financing feasibility studies and to meet the eligibility requirements for a construction grant. Construction grants shall be limited to $5,000,000 per project and not more than twenty five percent of a grant may be awarded in advance of actual expenditures. The Department of Health Services may expend up to $5,000,000 of the funds allocated in this section for technical assistance to eligible communities.

75023. For the purpose of providing the state share needed to leverage federal funds to assist communities in providing safe drinking water, the sum of fifty million dollars ($50,000,000) shall be available for deposit into the Safe Drinking Water State Revolving Fund (Section 116760.30 of the Health and Safety Code).

75024. For the purpose of providing the state share needed to leverage federal funds to assist communities in making those infrastructure investments necessary to prevent pollution of drinking water sources, the sum of eighty million dollars ($80,000,000) shall be available for deposit into the State Water Pollution Control Revolving Fund (Section 13477 of the Water Code).

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75025. The sum of sixty million dollars ($60,000,000) shall be available to the Department of Health Services for the purpose of loans and grants for projects to prevent or reduce contamination of groundwater that serves as a source of drinking water. The Department of Health Services shall require repayment for costs that are subsequently recovered from parties responsible for the contamination. The Legislature may enact legislation necessary to implement this section.

75026. (a) The sum of one billion dollars ($1,000,000,000) shall be available to the department for grants for projects that assist local public agencies to meet the long term water needs of the state including the delivery of safe drinking water and the protection of water quality and the environment. Eligible projects must implement integrated regional water management plans that meet the requirements of this section. Integrated regional water management plans shall identify and address the major water related objectives and conflicts within the region, consider all of the resource management strategies identified in the California Water Plan, and use an integrated, multi-benefit approach to project selection and design. Plans shall include performance measures and monitoring to document progress toward meeting plan objectives. Projects that may be funded pursuant to this section must be consistent with an adopted integrated regional water management plan or its functional equivalent as defined in the department's Integrated Regional Water Management Guidelines, must provide multiple benefits, and must include one or more of the following project elements:

(1) Water supply reliability, water conservation and water use efficiency.

(2) Storm water capture, storage, clean-up, treatment, and management.

(3) Removal of invasive non-native species, the creation and enhancement of wetlands, and the acquisition, protection, and restoration of open space and watershed lands.

(4) Non-point source pollution reduction, management and monitoring.

(5) Groundwater recharge and management projects.

(6) Contaminant and salt removal through reclamation, desalting, and other treatment technologies and conveyance of reclaimed water for distribution to users.

(7) Water banking, exchange, reclamation and improvement of water quality.

(8) Planning and implementation of multipurpose flood management programs.

(9) Watershed protection and management.

(10) Drinking water treatment and distribution.

(11) Ecosystem and fisheries restoration and protection.

(b) The Department of Water Resources shall give preference to proposals that satisfy the following criteria:

(1) Proposals that effectively integrate water management programs and projects within a hydrologic region identified in the California Water Plan; the Regional Water Quality Control Board region or subdivision or other region or sub-region specifically identified by the department.

(2) Proposals that effectively integrate water management with land use planning.

(3) Proposals that effectively resolve significant water-related conflicts within or between regions.

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(4) Proposals that contribute to the attainment of one or more of the objectives of the CALFED Bay Delta Program.

(5) Proposals that address statewide priorities.

(6) Proposals that address critical water supply or water quality needs for disadvantaged communities within the region.

(c) Not more that 5% of the funds provided by this section may be used for grants or direct expenditures for the development, updating or improvement of integrated regional water management plans.

(d) The department shall coordinate the provisions of this section with the program provided in Chapter 8 of Division 26.5 of the Water Code and may implement this section using existing Integrated Regional Water Management Guidelines.

75027. (a) The funding provided in Section 75026 shall be allocated to each hydrologic region as identified in the California Water Plan and listed below. For the South Coast Region, the department shall establish three sub-regions that reflect the San Diego county watersheds, the Santa Ana River watershed, and the Los Angeles--Ventura County watersheds respectively, and allocate funds to those sub-regions. The North and South Lahontan regions shall be treated as one region for the purpose of allocating funds, but the department may require separate regional plans. Funds provided in Section 75026 shall be allocated according to the following schedule:

(1) North Coast	$37,000,000
(2) San Francisco Bay	$138,000,000
(3) Central Coast	$52,000,000
(4) Los Angeles sub-region	$215,000,000
(5) Santa Ana sub-region	$114,000,000
(6) San Diego sub-region	$91,000,000
(7) Sacramento River	$73,000,000
(8) San Joaquin River	$57,000,000
(9) Tulare/Kern (Tulare Lake)	$60,000,000
(10) North/South Lahontan	$27,000,000
(11) Colorado River Basin	$36,000,000
(12) Inter-regional/Unallocated	$100,000,000

(b) The interregional and unallocated funds provided in subdivision (a) may be expended directly or granted by the department to address multi-regional needs or issues of statewide significance.

75028. (a) The department shall allocate grants on a competitive basis within each identified hydrologic region or sub-region pursuant to Section 75027. The department may establish standards and procedures for the development and approval of local project selection processes within hydrologic regions and sub-regions identified in Section 75027. The department shall defer to approved local project selection, and review projects only for consistency with the purposes of Section 75026.

(b) If a hydrologic region or sub-region identified in Section 75027 does not have any adopted plan that meets the requirements of Section 75026 at the time of the

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department's grant selection process, the funds allocated to that hydrologic region or sub-region shall not be reallocated to another region but will remain unallocated until such time as an adopted plan from the hydrologic region or sub-region is submitted to the department.

75029. The sum of one hundred thirty million dollars ($130,000,000) shall be available to the department for grants to implement Delta water quality improvement projects that protect drinking water supplies. The department shall require a cost share from local agencies. Eligible projects are:

(a) Projects that reduce or eliminate discharges of salt, dissolved organic carbon, pesticides, pathogens and other pollutants to the San Joaquin River. Not less than forty million ($40,000,000) shall be available to implement projects to reduce or eliminate discharges of subsurface agricultural drain water from the west side of the San Joaquin Valley for the purpose of improving water quality in the San Joaquin River and the Delta.

(b) Projects that reduce or eliminate discharges of bromide, dissolved organic carbon, salt, pesticides and pathogens from discharges to the Sacramento River.

(c) Projects at Franks Tract and other locations in the Delta that will reduce salinity or other pollutants at agricultural and drinking water intakes.

(d) Projects identified in the June 2005 Delta Region Drinking Water Quality Management Plan, with a priority for design and construction of the relocation of drinking water intake facilities for in-delta water users.

75029.5. The sum of fifteen million dollars ($15,000,000) shall be available to the state board for grants to public agencies and non-profit organizations for projects that reduce the discharge of pollutants from agricultural operations into surface waters of the state.

Chapter 3. Flood Control

75030. This chapter is intended to provide the funding needed to address short term flood control needs such as levee inspection and evaluation, floodplain mapping and improving the effectiveness of emergency response, and providing funding for critical immediate flood control needs throughout the state. It is also intended to provide a framework to support long term strategies that will require the establishment of more effective levee maintenance programs, better floodplain management and more balanced allocation of liability and responsibility between the federal, state and local governments.

75031. The sum of thirty million dollars ($30,000,000) shall be available to the department for the purposes of floodplain mapping, assisting local land-use planning, and to avoid or reduce future flood risks and damages. Eligible projects include, but are not limited to:

(a) Mapping floodplains.
(b) Mapping rural areas with potential for urbanization.
(c) Mapping and identification of flood risk in high density urban areas.
(d) Mapping flood hazard areas.

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(e) Updating outdated floodplain maps.
(f) Mapping of riverine floodplains, alluvial fans, and coastal flood hazard areas.
(g) Collecting topographic and hydrographic survey data.

75032. The sum of two hundred seventy five million dollars ($275,000,000) shall be available to the department for the following flood control projects:

(a) The inspection and evaluation of the integrity and capability of existing flood control project facilities and the development of an economically viable flood control rehabilitation plan.

(b) Improvement, construction, modification, and relocation of flood control levees, weirs, or bypasses including repair of critical bank and levee erosion.

(c) Projects to improve the department's emergency response capability.

(d) Environmental mitigation and infrastructure relocation costs related to projects under this section.

(e) To the extent feasible, the department shall implement a multi-objective management approach for floodplains that would include, but not be limited to, increased flood protection, ecosystem restoration, and farmland protection.

75032.4. Notwithstanding Section 13340 of the Government Code, the funds allocated in Sections 75031 and 75032 are continuously appropriated to the department for the purposes of those sections.

75032.5 The sum of forty million dollars ($40,000,000) shall be available to the department for Flood Protection Corridor projects that are consistent with Water Code Section 79037.

75033. The sum of two hundred seventy five million dollars ($275,000,000) shall be available to the department for flood control projects in the Delta designed to increase the department's ability to respond to levee breaches and to reduce the potential for levee failures. The funds provided by this section shall be available for the following purposes:

(a) Projects to improve emergency response preparedness.

(b) Local assistance under the delta levee maintenance subventions program under Part 9 (commencing with Section 12980) of Division 6 of the Water Code.

(c) Special flood protection projects under Chapter 2 (commencing with Section 12310) of Part 4.8 of Division 6 of the Water Code, including projects for the acquisition, preservation, protection and restoration of Delta lands for the purpose of flood control and to meet multiple objectives such as drinking water quality ecosystem restoration and water supply reliability.

(d) All projects shall be subject to the provisions of Water Code Section 79050.

75034. The sum of one hundred eighty million dollars ($180,000,000) shall be available to the department for the purposes of funding the state's share of the nonfederal costs of flood control and flood prevention projects for which assurances required by the federal government have been provided by a local agency and which have been authorized under the State Water Resources Law of 1945 (Chapter 1 (commencing with Section 12570) and Chapter 2 (commencing with Section 12639) of Part 6 of Division 6

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of the Water Code), the Flood Control Law of 1946 (Chapter 3 (commencing with Section 12800) of Part 6 of Division 6 of the Water Code), and the California Watershed Protection and Flood Prevention Law (Chapter 4 (commencing with Section 12850) of Part 6 of Division 6 of the Water Code), including the credits and loans to local agencies pursuant to Sections 12585.3 and 12585.4, subdivision (d) of Section 12585.5, and Sections 12866.3 and 12866.4 of the Water Code, and to implement Chapter 3.5 (commencing with Section 12840) of Part 6 of Division 6 of the Water Code. Projects eligible for funding pursuant to this section shall comply with the requirements of AB 1147 (Statutes of 2000, Chapter 1071).

Chapter 4. Statewide Water Planning and Design

75041. The sum of sixty five million dollars ($65,000,000) shall be available to the department for planning and feasibility studies related to the existing and potential future needs for California's water supply, conveyance and flood control systems. The studies shall be designed to promote integrated, multi-benefit approaches that maximize the public benefits of the overall system including protection of the public from floods, water supply reliability, water quality, and fish, wildlife and habitat protection and restoration. Projects to be funded include:

(a) Evaluation of climate change impacts on the state's water supply and flood control systems and the development of system redesign alternatives to improve adaptability and public benefits.

(b) Surface water storage planning and feasibility studies pursuant to the CALFED Bay-Delta Program.

(c) Modeling and feasibility studies to evaluate the potential for improving flood protection and water supply through coordinating groundwater storage and reservoir operations.

(d) Other planning and feasibility studies necessary to improve the integration of flood control and water supply systems.

Chapter 5. Protection of Rivers, Lakes and Streams

75050. The sum of nine hundred twenty eight million dollars ($928,000,000) shall be available for the protection and restoration of rivers, lakes and streams, their watersheds and associated land, water, and other natural resources in accordance with the following schedule:

(a) The sum of one hundred eighty million dollars ($180,000,000) shall be available to the Department of Fish and Game, in consultation with the department, for Bay-Delta and coastal fishery restoration projects. Of the funds provided in this section, up to $20,000,000 shall be available for the development of a natural community conservation plan for the CALFED Bay-Delta Program and up to $45,000,000 shall be available for coastal salmon and steelhead fishery restoration projects that support the development and implementation of species recovery plans and strategies for salmonid species listed as threatened or endangered under state or federal law.

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(b) The sum of ninety million dollars ($90,000,000) shall be available for projects related to the Colorado River in accordance with the following schedule:

(1) Not more than $36,000,000 shall be available to the department for water conservation projects that implement the Allocation Agreement as defined in the Quantification Settlement Agreement.

(2) Not more than $7,000,000 shall be available to the Department of Fish and Game for projects to implement the Lower Colorado River Multi-Species Habitat Conservation Plan.

(3) $47,000,000 shall be available for deposit into the Salton Sea Restoration Fund.

(c) The sum of fifty four million dollars ($54,000,000) shall be available to the department for development, rehabilitation, acquisition, and restoration costs related to providing public access to recreation and fish and wildlife resources in connection with state water project obligations pursuant to Water Code Section 11912.

(d) The sum of seventy two million dollars ($72,000,000) shall be available to the secretary for projects in accordance with the California River Parkways Act of 2004 Chapter 3.8 (commencing with Section 5750) of Division 5. Up to $10,000,000 may be transferred to the Department of Conservation for the Watershed Coordinator Grant Program.

(e) The sum of eighteen million dollars ($18,000,000) shall be available to the department for the Urban Streams Restoration Program pursuant to Water Code Section 7048.

(f) The sum of thirty six million dollars ($36,000,000) shall be available for river parkway projects to the San Joaquin River Conservancy.

(g) The sum of seventy two million dollars ($72,000,000) shall be available for projects within the watersheds of the Los Angeles and San Gabriel Rivers according to the following schedule:

(1) $36,000,000 to the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy pursuant to Division 22.8 (commencing with Section 32600).

(2) $36,000,000 to the Santa Monica Mountains Conservancy for implementation of watershed protection activities throughout the watershed of the Upper Los Angeles River pursuant to Section 79508 of the Water Code.

(h) The sum of thirty six million dollars ($36,000,000) shall be available for the Coachella Valley Mountains Conservancy.

(i) The sum of forty five million dollars ($45,000,000) shall be available for projects to expand and improve the Santa Ana River Parkway. Project funding shall be appropriated to the State Coastal Conservancy for projects developed in consultation with local government agencies participating in the development of the Santa Ana River Parkway. Of the amount provided in this paragraph the sum of thirty million dollars ($30,000,000) shall be equally divided between projects in Orange, San Bernardino and Riverside Counties.

(j) The sum of fifty four million dollars ($54,000,000) shall be available for the Sierra Nevada Conservancy.

(k) The sum of thirty six million dollars ($36,000,000) shall be available for the California Tahoe Conservancy.

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(l) The sum of forty five million dollars ($45,000,000) shall be available to the California Conservation Corps for resource conservation and restoration projects and for facilities acquisition, development, restoration, and rehabilitation and for grants and state administrative costs, in accordance with the following schedule:

(1) The sum of twenty five million dollars ($25,000,000) shall be available for projects to improve public safety and improve and restore watersheds including regional and community fuel load reduction projects on public lands, and stream and river restoration projects. Not less that 50% of these funds shall be in the form of grants to local conservation corps.

(2) The sum of twenty million dollars ($20,000,000) shall be available for grants to local conservation corps for acquisition and development of facilities to support local conservation corps programs, and for local resource conservation activities.

(m) The sum of ninety million dollars ($90,000,000) to the state board for matching grants to local public agencies for the reduction and prevention of stormwater contamination of rivers, lakes, and streams. The legislature may enact legislation to implement this subdivision.

(n) The sum of one hundred million dollars ($100,000,000) shall be available to the secretary for the purpose of implementing a court settlement to restore flows and naturally-reproducing and self-sustaining populations of salmon to the San Joaquin River between Friant Dam and the Merced River. These funds shall be available for channel and structural improvements, and related research pursuant to the court settlement. The secretary is authorized to enter into a cost-sharing agreement with the United States Secretary of the Interior and other parties, as necessary, to implement this provision.

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Chapter 6. Forest and Wildlife Conservation

75055. The sum of four hundred fifty million dollars ($450,000,000) shall be available for the protection and conservation of forests and wildlife habitat according to the following schedule:

(a) Notwithstanding Section 13340 of the Government Code, the sum of one hundred eighty million dollars ($180,000,000) is continuously appropriated to the board for forest conservation and protection projects. The goal of this grant program is to promote the ecological integrity and economic stability of California's diverse native forests for all their public benefits through forest conservation, preservation and restoration of productive managed forest lands, forest reserve areas, redwood forests and other forest types, including the conservation of water resources and natural habitats for native fish, wildlife and plants found on these lands.

(b) (1) Notwithstanding Section 13340 of the Government Code, the sum of one hundred thirty five million dollars ($135,000,000) is hereby continuously appropriated to the board for the development, rehabilitation, restoration, acquisition and protection of habitat that accomplishes one or more of the following objectives:

(A) Promotes the recovery of threatened and endangered species.

(B) Provides corridors linking separate habitat areas to prevent fragmentation.

(C) Protects significant natural landscapes and ecosystems such as old growth redwoods, mixed conifer forests and oak woodlands, riparian and wetland areas, and other significant habitat areas.

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(D) Implements the recommendations of California Comprehensive Wildlife Strategy, as submitted October 2005 to the United States Fish and Wildlife Service.

(2) Funds authorized by this subdivision may be used for direct expenditures or for grants and for related state administrative costs, pursuant to the Wildlife Conservation Law of 1947, Chapter 4 (commencing with Section 1300) of Division 2 of the Fish and Game Code, the Oak Woodland Conservation Act, Article 3.5 (commencing with Section 1360) of Chapter 4 of Division 2 of the Fish and Game Code, and the California Rangeland, Grazing Land and Grassland Protection Act, commencing with Section 10330 of Division 10.4. Funds scheduled in this subdivision may be used to prepare management plans for properties acquired by the Wildlife Conservation Board and for the development of scientific data, habitat mapping and other research information necessary to determine the priorities for restoration and acquisition statewide.

(3) Up to twenty five million dollars ($25,000,000) may be granted to the University of California for the Natural Reserve System for matching grants for land acquisition and for the construction and development of facilities that will be used for research and training to improve the management of natural lands and the preservation of California's wildlife resources.

(c) The sum of ninety million dollars ($90,000,000) shall be available to the board for grants to implement or assist in the establishment of Natural Community Conservation Plans, Chapter 10 (Commencing with Section 2800) of Division 3 of the Fish and Game Code.

(d) The sum of forty five million dollars ($45,000,000) shall be available for the protection of ranches, farms, and oak woodlands according the following schedule:

(1) Grazing land protection pursuant to the California Rangeland, Grazing Land and Grassland Protection Act, commencing with Section 10330 of Division 10.4.....$15,000,000.

(2) Oak Woodland Preservation pursuant to Article 3.5 (commencing with Section 1360) of Chapter 4 of Division 2 of the Fish and Game Code....$15,000,000.

(3) Agricultural land preservation pursuant to the California Farmland Conservancy Program Act of 1995, Article 1 (commencing with Section 10200) of Division 10.2.....$10,000,000.

(4) To the board for grants to assist farmers in integrating agricultural activities with ecosystem restoration and wildlife protection.....$5,000,000.

Chapter 7. Protection of Beaches, Bays and Coastal Waters

75060. The sum of five hundred forty million dollars ($540,000,000) shall be available for the protection of beaches, bays and coastal waters and watersheds, including projects to prevent contamination and degradation of coastal waters and watersheds, projects to protect and restore the natural habitat values of coastal waters and lands, and projects and expenditures to promote access to and enjoyment of the coastal resources of the state, in accordance with the following schedule:

(a) The sum of ninety million dollars ($90,000,000) shall be available to the state board for the purpose of matching grants for protecting beaches and coastal waters from pollution and toxic contamination pursuant to the Clean Beaches Program, Chapter 3 (commencing with Section 30915) of Division 20.4. Not less than $35,000,000 shall be

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for grants to local public agencies to assist those agencies to comply with the discharge prohibition into Areas of Special Biological Significance contained in the California Ocean Plan. Not less than 20% of the funds allocated by this subdivision shall be available to the Santa Monica Bay Restoration Commission.

(b) The sum of one hundred thirty five million dollars ($135,000,000) shall be available for the State Coastal Conservancy for expenditure pursuant to Division 21.

(c) The sum of one hundred eight million dollars ($108,000,000) shall be available for the San Francisco Bay Area Conservancy Program pursuant to Chapter 4.5 of Division 21. Not less than 20% of the funds allocated by this paragraph shall be expended on projects in watersheds draining directly to the Pacific Ocean.

(d) The sum of forty five million dollars ($45,000,000) for the protection of the Santa Monica Bay and its watersheds shall be available as follows:

(1) To the Santa Monica Mountains Conservancy pursuant to Division 23 (commencing with Section 33000).....$20,000,000.

(2) To the Baldwin Hills Conservancy for the protection of the Ballona Creek/Baldwin Hills watershed....$10,000,000.

(3) To the Rivers and Mountains Conservancy.....$15,000,000.

(e) The sum of forty five million dollars ($45,000,000) for the protection of Monterey Bay and its watersheds shall be available to the State Coastal Conservancy.

(f) The sum of twenty seven million dollars ($27,000,000) for the protection of San Diego Bay and adjacent watersheds shall be available to the State Coastal Conservancy.

(g) The sum of ninety million dollars ($90,000,000) shall be allocated to the California Ocean Protection Trust Fund (Chapter 4 (commencing with Section 35650) of Division 26.5) and available for the purposes of projects consistent with Section 35650. Priority projects shall include the development of scientific data needed to adaptively manage the state's marine resources and reserves, including the development of marine habitat maps, the development and implementation of projects to foster sustainable fisheries using loans and grants, and the development and implementation of projects to conserve marine wildlife.

Chapter 8. Parks and Nature Education Facilities

75063. The sum of five hundred million dollars ($500,000,000) shall be available to provide public access to the resources of the State of California, including its rivers, lakes and streams, its beaches, bays and coastal waters, to protect those resources for future generations, and to increase public understanding and knowledge of those resources, in accordance with the following schedule:

(a) The sum of four hundred million dollars ($400,000,000) shall be available to the Department of Parks and Recreation for development, acquisition, interpretation, restoration and rehabilitation of the state park system and its natural, historical, and visitor serving resources. The Department of Parks and Recreation shall include the following goals in setting spending priorities for the funds appropriated pursuant to this section:

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(1) The restoration, rehabilitation and improvement of existing state park system lands and facilities.

(2) The expansion of the state park system to reflect the growing population and shifting population centers and needs of the state.

(3) The protection of representative natural resources based on the criteria and priorities identified in Section 75071.

(b) The sum of one hundred million dollars ($100,000,000) shall be available to the Department of Parks and Recreation for grants for nature education and research facilities and equipment to non-profit organizations and public institutions, including natural history museums, aquariums, research facilities and botanical gardens. Eligible institutions include those that combine the study of natural science with preservation, demonstration and education programs that serve diverse populations, institutions that provide collections and programs related to the relationship of Native American cultures to the environment, and institutions for marine wildlife conservation research. Grants may be used for buildings, structures and exhibit galleries that present the collections to inspire and educate the public and for marine wildlife conservation research equipment and facilities.

Chapter 9. Sustainable Communities and Climate Change Reduction

75065. The sum of five hundred eighty million dollars ($580,000,000) shall be available for improving the sustainability and livability of California's communities through investment in natural resources. The purposes of this chapter include reducing urban communities' contribution to global warming and increasing their adaptability to climate change while improving the quality of life in those communities. Funds shall be available in accordance with the following schedule:

(a) The sum of ninety million dollars ($90,000,000) shall be available for urban greening projects that reduce energy consumption, conserve water, improve air and water quality, and provide other community benefits. Priority shall be given to projects that provide multiple benefits, use existing public lands, serve communities with the greatest need, and facilitate joint use of public resources and investments including schools. Implementing legislation shall provide for planning grants for urban greening programs. Not less than $20,000,000 shall be available for urban forestry projects pursuant to the California Urban Forestry Act, Chapter 2 (commencing with Section 4799.06) of Part 2.5 of Division 1.

(b) The sum of four hundred million dollars ($400,000,000) shall be available to the Department of Parks and Recreation for competitive grants for local and regional parks. Funds provided in this subdivision may be allocated to existing programs or pursuant to legislation enacted to implement this subdivision, subject to the following considerations:

(1) Acquisition and development of new parks and expansion of overused parks that provide park and recreational access to underserved communities shall be given preference.

(2) Creation of parks in neighborhoods where none currently exist shall be given preference.

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(3) Outreach and technical assistance shall be provided to underserved communities to encourage full participation in the program or programs.

(4) Preference shall be given to applicants that actively involve community based groups in the selection and planning of projects.

(5) Projects will be designed to provide efficient use of water and other natural resources.

(c) The sum of ninety million dollars ($90,000,000) shall be available for planning grants and planning incentives, including revolving loan programs and other methods to encourage the development of regional and local land use plans that are designed to promote water conservation, reduce automobile use and fuel consumption, encourage greater infill and compact development, protect natural resources and agricultural lands, and revitalize urban and community centers.

75066. Appropriation of the funds provided in subdivisions (a) and (c) of Section 75065 may only be made upon enactment of legislation to implement that subdivision.

Chapter 10. Miscellaneous Provisions } caps + small caps.

75070. Every proposed activity or project to be financed pursuant to this division shall be in compliance with the California Environmental Quality Act, Division 13 (commencing with Section 21000).

75070.4. Acquisitions of real property pursuant to Chapters 5, 6, 7, 8, and 9 shall be from willing sellers.

75070.5. Not more than 5% of the funds allocated to any program in this division may be used to pay the costs incurred in the administration of that program.

75071. In evaluating potential projects that include acquisition or restoration for the purpose of natural resource protection, the Department of Parks and Recreation, the board, and the State Coastal Conservancy shall give priority to projects that demonstrate one or more of the following characteristics:

(a) Landscape/Habitat Linkages: properties that link to, or contribute to linking, existing protected areas with other large blocks of protected habitat. Linkages must serve to connect existing protected areas, facilitate wildlife movement or botanical transfer, and result in sustainable combined acreage.

(b) Watershed Protection: projects that contribute to long-term protection of and improvement to the water and biological quality of the streams, aquifers, and terrestrial resources of priority watersheds of the major biological regions of the state as identified by the Resources Agency.

(c) Properties that support relatively large areas of under-protected major habitat types.

(d) Properties that provide habitat linkages between two or more major biological regions of the state.

SUBJECT TO COURT ORDERED CHANGES

(e) Properties for which there is a non-state matching contribution toward the acquisition, restoration, stewardship or management costs. Matching contributions can be either monetary or in the form of services, including volunteer services.

(f) At least fourteen days before approving an acquisition project funded by this division, an agency subject to this section shall submit to the Resources Agency and post on its website an explanation as to whether and how the proposed acquisition meets criteria established in this section.

75071.5. The Department of Parks and Recreation, the board, and the State Coastal Conservancy shall work with the United States Department of Defense to coordinate the development of buffer areas around military facilities that facilitate the continued operation of those facilities and promote the conservation and recreation goals of the state. To the extent consistent with this division, agencies may provide funding to support projects that meet the purposes of this section.

75072. Up to 10 percent of funds allocated for each program funded by this division may be used to finance planning and monitoring necessary for the successful design, selection, and implementation of the projects authorized under that program. This provision shall not otherwise restrict funds ordinarily used by an agency for "preliminary plans," "working drawings," and "construction" as defined in the Annual Budget Act for a capital outlay project or grant project. Water quality monitoring shall be integrated into the Surface Water Ambient Monitoring Program administered by the state board.

75072.5 For the purposes of Section 75060(e), "Monterey Bay and its watersheds" shall be considered to be watersheds of those rivers and streams in Santa Cruz and Monterey Counties flowing to the Monterey Bay southward to, and including, the Carmel River watershed.

75072.6. For purposes of Section 75060(f), "San Diego Bay and adjacent watersheds" includes the coastal and bay watersheds within San Diego County.

75072.7. For purposes of Section 75060(d), "Santa Monica Bay and watershed" includes the coastal and bay watersheds in Ventura and Los Angeles Counties from Calleguas Creek southward to the San Gabriel River.

75073. Funds scheduled in Chapter 5, 6, 7 and 8 of this division that are not designated for competitive grant programs may also be used for the purposes of reimbursing the General Fund, pursuant to the Natural Heritage Preservation Tax Credit Act of 2000 (Division 28 (commencing with Section 37000)).

75074. In enacting Chapters 5, 6, 7 and 8 of this division it is the intent of the people that when a project or program is funded herein, funds for such program or project may be used to the full extent authorized by the statute governing the program or conservancy receiving such funds.

SUBJECT TO COURT ORDERED CHANGES

75075. The body awarding any contract for a public works project financed in any part from funds made available pursuant to this division shall adopt and enforce, or contract with a third party to enforce, a labor compliance program pursuant to subdivision (b) of Labor Code Section 1771.5 for application to that public works project.

75076. Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government code does not apply to the development and adoption of program guidelines and selection criteria adopted pursuant to this chapter.

75077. Funds provided pursuant to this chapter, and any appropriation or transfer of those funds, shall not be deemed to be a transfer of funds for the purposes of Chapter 9 (commencing with Section 2780) of Division 3 of the Fish and Game Code.

75078. The Secretary shall provide for an independent audit of expenditures pursuant to this division to ensure that all moneys are expended in accordance with the requirements of this division. The secretary shall publish a list of all program and project expenditures pursuant to this division not less than annually, in written form, and shall post an electronic form of the list on the Resources Agency's Internet Website.

75079. The Secretary shall appoint a citizen advisory committee to review the annual audit and to identify and recommend actions to ensure that the intent and purposes of this division are met by the agencies responsible for implementation of this division.

Chapter 11. Fiscal Provisions

75080. Bonds in the total amount of five billion three hundred and eighty eight million dollars ($5,388,000,000), not including the amount of any refunding bonds issued in accordance with Section 75088, or so much thereof as is necessary, may be issued and sold to be used for carrying out the purposes set forth in this division and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bond proceeds shall be deposited in the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 created by Section 75009. The bonds shall, when sold, be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of and interest on the bonds as they become due and payable.

75081. The bonds authorized by this division shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law, Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, and all provisions of that law shall apply to the bonds and to this division and are hereby incorporated in this division by this reference as though fully set forth in this division.

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75082. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this division, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Finance Committee is hereby created. For purposes of this division, the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Finance Committee is "the committee" as that term is used by the State General Obligation Bond Law. The committee shall consist of the Controller, the Director of Finance, and the Treasurer, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

(b) For purposes of this chapter and the State General Obligation Bond Law, the secretary is designated as "the board."

75083. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this division in order to carry out the actions specified in this division and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be authorized and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized to be issued be sold at any one time.

75084. There shall be collected annually in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds maturing each year, and it is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do so and perform each and every act that is necessary to collect that additional sum.

75085. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund, for purposes of this division, an amount that will equal the total of the following:

(a) The sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this division, as the principal and interest become due and payable.

(b) The sum which is necessary to carry out the provisions of Section 75086, appropriated without regard to fiscal years.

75086. For the purposes of carrying out this division, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of the unsold bonds that have been authorized to be sold for the purpose of carrying out this division. Any amounts withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from money received from the sale of bonds that would otherwise be deposited in that fund.

75087. All money derived from premium and accrued interest on bonds sold shall be reserved and shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

SUBJECT TO COURT ORDERED CHANGES

75088. Any bonds issued or sold pursuant to this division may be refunded by the issuance of refunding bonds in accordance with Article 6 (commencing with Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of the Government Code. Approval by the electors of the state for the issuance of the bonds shall include approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

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75090. The people of California hereby find and declare that inasmuch as the proceeds from the sale of bonds authorized by this division are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitation imposed by that article.

¶ SEC. 2. If any provision of this Act or the application thereof is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

¶ SEC.3. This Act is an exercise of the public power of the People of the State of California for the protection of their health, safety, and welfare and shall be liberally construed to effectuate those purposes.

SUBJECT TO COURT ORDERED CHANGES

TEXT OF PROPOSITION 85

SUBJECT TO COURT
ORDERED CHANGES

PROP. 85

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by adding sections thereto; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SUBJECT TO COURT ORDERED CHANGES

SA2005RF0132, AMDT. #1-S

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO VOTERS

The Attorney General of California has prepared the following title and summary of the chief purposes and points of the proposed measure:

(Insert 100 word title and summary)

To the Honorable Secretary of State of California:

We the undersigned, registered, qualified voters of California, residents of the afore-described County (or City and County), on the signature page of this petition section, hereby propose an amendment to the Constitution of the State of California relating to parental notification and personal consent prior to the performance of an abortion on a pregnant unemancipated minor and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to the general election or otherwise provided by law. The proposed amendment reads as follows:

SECTION 1. Title

measure

This amendment shall be known and may be cited as the Parents' Right to Know and Child Protection Initiative.

SECTION 2. Declaration of Findings and Purposes

The People of California have a special and compelling interest in and responsibility for protecting the health and well-being of children, ensuring that parents are properly informed of potential health-related risks and medical decisions involving their children, and promoting and enabling parental care and responsibility.

SECTION 3. Parental Notification

Section 32 of Article I of the California Constitution, ~~is added~~ to read:

is added to

SUBJECT TO COURT ORDERED CHANGES

SEC. 32. (a) For purposes of this Section, the following terms shall be defined to mean:

(1) "Abortion" means the use of any means to terminate the pregnancy of an unemancipated minor known to be pregnant, except for the purpose of producing a live birth. "Abortion" shall not include the use of any contraceptive drug or device.

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(2) "Medical emergency" means a condition which, on the basis of the physician's good-faith clinical judgment, so complicates the medical condition of a pregnant unemancipated minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create serious risk of substantial and irreversible impairment of a major bodily function.

(3) "Notice" means a written notification, signed and dated by a physician or his or her agent and addressed to a parent or guardian of an unemancipated minor, informing the parent or guardian that she is pregnant and that she has requested an abortion.

(4) "Parent or guardian" means a person who, at the time notice or waiver is required under this Section, is either a parent if both parents have legal custody, or the parent or person having legal custody, or the legal guardian of an unemancipated minor.

(5) "Unemancipated minor" means a female under the age of 18 years who has not entered into a valid marriage and is not on active duty with the armed services of the United States and has not received a declaration of emancipation under state law. For the purposes of this Section, pregnancy does not emancipate a female under the age of 18 years.

(6) "Physician" means any person authorized under the statutes and regulations of the State of California to perform an abortion upon an unemancipated minor.

(b) Notwithstanding Article 1, Section 1 or any other provision of this Constitution or law to the contrary and except in a medical emergency as provided for in subdivision (f), a physician shall not perform an abortion upon a pregnant unemancipated minor until the physician or the physician's agent has provided written notice to her parent or guardian personally as provided for in subdivision (c) and a reflection period of at least forty-eight (48) hours has elapsed after

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personal delivery of notice; or until the physician can presume that notice has been delivered by mail as provided in subdivision (d) and a reflection period of at least forty-eight (48) hours has elapsed after presumed delivery of notice by mail; or until the physician or the physician's agent has received a valid written waiver of notice as provided for in subdivision (e); or until the physician has received a copy of a waiver of notification from the court as provided in subdivision (h) or (i) or (j). A copy of any notice or waiver shall be retained with the unemancipated minor's medical records. The physician or the physician's agent shall inform the unemancipated minor that her parent or guardian may receive notice as provided for in this section.

(c) The written notice shall be delivered to the parent or guardian personally by the physician or the physician's agent unless delivered by mail as provided in subdivision (d). A form for the notice shall be prescribed by the Department of Health Services. The notice form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California Official Voter Information Guides are published.

(d) The written notice may be delivered by certified mail addressed to the parent or guardian at the parent's or guardian's last known address with return receipt requested and restricted delivery to the addressee. To help ensure timely notice, a copy of the written notice shall also be sent at the same time by first class mail to the parent or guardian. Notice can only be presumed to have been delivered under the provisions of this subdivision at noon of the second day after the written notice sent by certified mail was postmarked, not counting any days on which regular mail delivery does not take place.

(e) Notice of an unemancipated minor's intent to obtain an abortion and the reflection period of at least forty-eight (48) hours may be waived by her parent or guardian. The waiver must be in writing, on a form prescribed by the Department of Health Services, signed by a parent or guardian, dated, and notarized. The parent or guardian shall specify on the form that the waiver is valid for 30 days, or until a specified date, or until the minor's eighteenth birthday. The written waiver need not be notarized if the parent or guardian personally delivers it to the physician or the physician's agent. The form shall include the following statement: **"WARNING. It is a crime to knowingly provide false information to a physician or a physician's agent for the purpose of inducing a physician or a physician's agent to believe that a waiver of notice has been provided by a parent or guardian."** The waiver form shall be bilingual, in English and Spanish, and also available in English and each of the other languages in which California

SUBJECT TO COURT ORDERED CHANGES

Official Voter Information Guides are published. For each abortion performed on an unemancipated minor pursuant to this subdivision, the physician or the physician's agent must receive a separate original written waiver that shall be retained with the unemancipated minor's medical records.

(f) Notice shall not be required under this Section if the attending physician certifies in the unemancipated minor's medical records the medical indications supporting the physician's good-faith clinical judgment that the abortion is necessary due to a medical emergency.

(g) Notice shall not be required under this Section if waived pursuant to this subdivision and subdivisions (h), or (i), or (j). If the pregnant unemancipated minor elects not to permit notice to be given to a parent or guardian, she may file a petition with the juvenile court. If, pursuant to this subdivision, an unemancipated minor seeks to file a petition, the court shall assist the minor or person designated by the minor in preparing the documents required pursuant to this Section. The petition shall set forth with specificity the minor's reasons for the request. The court shall ensure that the minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing a petition. The unemancipated minor shall appear personally in the proceedings in juvenile court and may appear on her own behalf or with counsel of her own choosing. The court shall, however, advise her that she has a right to court-appointed counsel upon request. The court shall appoint a guardian ad litem for her. The hearing shall be held by 5 p.m. on the second court day after filing the petition unless extended at the written request of the unemancipated minor, her guardian ad litem, or her counsel. If the guardian ad litem requests an extension, that extension may not be granted for more than one court day without the consent of the unemancipated minor or her counsel. The unemancipated minor shall be notified of the date, time, and place of the hearing on the petition. Judgment shall be entered within one court day of submission of the matter. The judge shall order a record of the evidence to be maintained, including the judge's written factual findings and legal conclusions supporting the decision.

(h) (1) If the judge finds, by clear and convincing evidence, that the unemancipated minor is sufficiently mature and well-informed to decide whether to have an abortion, the judge shall authorize a waiver of notice of a parent or guardian.

(2) If the judge finds, by clear and convincing evidence, that notice to a parent or guardian is not in the best interests of the unemancipated minor, the judge

SUBJECT TO COURT ORDERED CHANGES

shall authorize a waiver of notice. If the finding that notice to a parent or guardian is not in the best interests of the minor is based on evidence of physical, sexual, or emotional abuse, the court shall ensure that such evidence is brought to the attention of the appropriate county child protective agency.

(3) If the judge does not make a finding specified in subdivision (h)(1) or (h)(2), the judge shall deny the petition.

(i) If the judge fails to rule within the time period specified in subdivision (g) and no extension was requested and granted, the petition shall be deemed granted and the notice requirement shall be waived.

(j) The unemancipated minor may appeal the judgment of the juvenile court at any time after the entry of judgment. The Judicial Council shall prescribe, by rule, the practice and procedure on appeal and the time and manner in which any record on appeal shall be prepared and filed and may prescribe forms for such proceedings. These procedures shall require that the hearing shall be held within three court days of filing the notice of appeal. The unemancipated minor shall be notified of the date, time, and place of the hearing. Judgment shall be entered within one court day of submission of the matter. The appellate court shall ensure that the unemancipated minor's identity be kept confidential and that all court proceedings be sealed. No filing fee shall be required for filing an appeal. Judgment on appeal shall be entered within one court day of submission of the matter.

(k) The Judicial Council shall prescribe, by rule, the practice and procedure for petitions for waiver of parental notification, hearings, and entry of judgment as it deems necessary and may prescribe forms for such proceedings. Each court shall provide annually to the Judicial Council, in a manner to be prescribed by the Judicial Council to ensure confidentiality of the unemancipated minors filing petitions, a report of the number of petitions filed, the number of petitions granted under subdivisions (h)(1) or (h)(2), deemed granted under subdivision (i), denied under subdivision (h)(3), and granted and denied under subdivision (j), said reports to be publicly available unless the Judicial Council determines that the data contained in individual reports should be aggregated by county before being made available to the public in order to preserve the confidentiality of the unemancipated minors filing petitions.

(l) The Department of Health Services shall prescribe forms for the reporting of abortions performed on unemancipated minors by physicians. The report forms

SUBJECT TO COURT ORDERED CHANGES

shall not identify the unemancipated minor or her parent(s) or guardian by name or request other information by which the unemancipated minor or her parent(s) or guardian might be identified. The forms shall include the date of the procedure and the unemancipated minor's month and year of birth, the duration of the pregnancy, the type of abortion procedure, the numbers of the unemancipated minor's previous abortions and deliveries if known, and the facility where the abortion was performed. The forms shall also indicate whether the abortion was performed after personal delivery of a notice, pursuant to subdivision (c); or was an abortion performed after presumed delivery of a notice by mail, pursuant to subdivision (d); or was an abortion performed after receiving a waiver of notice, pursuant to subdivision (e); or was an abortion performed without notice, pursuant to subdivision (f); or was an abortion performed after receiving any judicial waiver of notice, pursuant to subdivision~~s~~ (h), (i), or (j).

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(m) The physician who performs an abortion on an unemancipated minor shall within one month file a dated and signed report concerning it with the Department of Health Services on forms prescribed pursuant to subdivision (l). The identity of the physician shall be kept confidential and shall not be subject to disclosure under the California Public Records Act.

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(n) The Department of Health Services shall compile an annual statistical report from the information specified in subdivision (l). The annual report shall not include the identity of any physician who filed a report as required by subdivision (m). The compilation shall include statistical information on the numbers of abortions by month and by county where performed, the minors' ages, the duration of the pregnancies, the types of abortion procedures, the numbers of prior abortions or deliveries where known, and the numbers of abortions performed after personal delivery of a notice, pursuant to subdivision (c); the numbers of abortions performed after presumed delivery of a notice by mail, pursuant to subdivision (d); the numbers of abortions performed after a waiver of notice, pursuant to subdivision (e); the numbers of abortions performed without notice, pursuant to subdivision (f); and the numbers of abortions performed after any judicial waivers, pursuant to (h), (i), or (j). The annual statistical report shall be made available to county public health officials, members of the legislature, the governor, and the public.

subdivision

(o) Any person who performs an abortion on an unemancipated minor and in so doing knowingly or negligently fails to comply with the provisions of this ~~S~~ection shall be liable for damages in a civil action brought by the unemancipated minor, her legal representative, or by a parent or guardian wrongfully denied notification.

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A person shall not be liable under this Section if the person establishes by written evidence that the person relied upon evidence sufficient to convince a careful and prudent person that the representations of the unemancipated minor or other persons regarding information necessary to comply with this Section were bona fide and true. At any time prior to the rendering of a final judgment in an action brought under this subdivision, the parent or guardian may elect to recover, in lieu of actual damages, an award of statutory damages in the amount of $10,000. In addition to any damages awarded under this subdivision, the plaintiff shall be entitled to an award of reasonable attorney fees. Nothing in this Section shall abrogate, limit, or restrict the common law rights of parents or guardians, or any right to relief under any theory of liability that any person or any state or local agency may have under any statute or common law for any injury or damage, including any legal, equitable, or administrative remedy under federal or state law, against any party, with respect to injury to an unemancipated minor from an abortion.

(p) Other than an unemancipated minor who is the patient of a physician, or other than the physician or the physician's agent, any person who knowingly provides false information to a physician or a physician's agent for the purpose of inducing the physician or the physician's agent to believe that pursuant to this Section notice has been or will be delivered, or that a waiver of notice has been obtained, or that an unemancipated minor patient is not an unemancipated minor, is guilty of a misdemeanor punishable by a fine of up to $1,000.

(q) Notwithstanding any notices delivered pursuant to subdivisions (c) or (d) or waivers received pursuant to subdivisions (e), (h), (i), or (j), except where the particular circumstances of a medical emergency or her own mental incapacity precludes obtaining her consent, a physician shall not perform or induce an abortion upon an unemancipated minor except with the consent of the unemancipated minor herself.

(r) Notwithstanding any notices delivered pursuant to subdivisions (c) or (d) or waivers received pursuant to subdivisions (e), (h), (i), or (j), an unemancipated minor who is being coerced by any person through force, threat of force, or threatened or actual deprivation of food or shelter to consent to undergo an abortion may apply to the juvenile court for relief. The court shall give the matter expedited consideration and grant such relief as may be necessary to prevent such coercion.

SUBJECT TO COURT ORDERED CHANGES

(s) This Section shall not take effect until 90 days after the election in which it is approved. The Judicial Council shall, within these 90 days, prescribe the rules, practices, and procedures and prepare and make available any forms it may prescribe as provided in subdivision (k). The Department of Health Services shall, within these 90 days, prepare and make available the forms prescribed in subdivisions (c), (e), and (l). State

(t) If any one or more provision, subdivision, sentence, clause, phrase or word of this Section or the application thereof to any person or circumstance is found to be unconstitutional or invalid, the same is hereby declared to be severable and the balance of this Section shall remain effective notwithstanding such unconstitutionality or invalidity. Each provision, subdivision, sentence, clause, phrase, or word of this Section would have been approved by voters irrespective of the fact that any one or more provision, subdivision, sentence, clause, phrase, or word might be declared unconstitutional or invalid.

(u) Except for the rights, duties, privileges, conditions, and limitations specifically provided for in this Section, nothing in this Section shall be construed to grant, secure, or deny any other rights, duties, privileges, conditions, and limitations relating to abortion or the funding thereof.

SUBJECT TO COURT ORDERED CHANGES

TEXT OF PROPOSITION 86

SUBJECT TO COURT
ORDERED CHANGES

PROP. 86

#1197 JT
KSL

Health and Safety Code, the Insurance Code, the Revenue and Taxation Code, and the Welfare and Institutions

VSB-Secs 1 to Sec. 3

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure adds sections to the California Constitution and the ~~Government~~ Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SUBJECT TO COURT ORDERED CHANGES

SA2005RF0139, AMDT. #1 - NS

~~INITIATIVE MEASURE TO BE SUBMITTED TO VOTERS~~

THE TOBACCO TAX ACT OF 2006

SECTION 1. Statement of Findings

(a) Cigarette smoking and other uses of tobacco are leading causes of many serious health problems, including cancer, heart disease and respiratory diseases. The treatment of tobacco-related diseases imposes a significant burden upon California's already overstressed health care system. Prior efforts to curb the use of tobacco have not sufficiently eased the health care burden on the taxpayers of California.

(b) Tobacco use costs Californians billions of dollars a year in medical expenses and lost productivity.

(c) Currently, the state imposes a tax on cigarettes and tobacco products. Funds from that tax are used in part by the state to fund programs to offset the adverse health consequences of tobacco use. The tobacco tax is an appropriate source to fund prevention, research and treatment of chronic diseases, including improved access to health care for children and adults.

(d) The tax on tobacco products in California has not been raised since 1998. As a consequence, the total tax levied on tobacco products is much less than in many other states. Yet the health consequences to our citizens, particularly children and young adults, and the corresponding burden on our state's health care system continue.

(e) The deterioration of the state's hospital emergency services network has left many communities unable to adequately cope with the normal flow of emergency services. This emergency services crisis imposes a significant burden on our community clinics and keeps them from fulfilling their important health care function for low income children and adults.

(f) Funds which could be used to provide pioneering research into the prevention and treatment of chronic diseases, and health insurance for our most vulnerable children, are increasingly diverted to address the health care crisis caused, in part, by tobacco-related illnesses.

(g) Almost 80% of adult smokers become addicted to tobacco before age 18. Increasing the cost of cigarettes and other tobacco products and providing a comprehensive tobacco control program have proven to be two of the most effective ways to reduce smoking among youth and the associated health problems and economic costs.

(h) The establishment of programs designed to (1) reduce the consumption of tobacco in the first instance, (2) fund research, early detection and treatment of chronic diseases, and (3) preserve access to emergency hospital services performed by well-trained doctors and nurses, is vital to the public's interest.

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SECTION 2. Statement of Purpose

(a) The people of California hereby increase the tax on tobacco to reduce the economic costs of tobacco use in California and to provide supplemental funding to:

(1) promote medical research into chronic diseases, particularly cancer;

(2) reduce the impact of chronic diseases through prevention, early detection, treatment and comprehensive health insurance; and

(3) improve access to and delivery of health care, particularly emergency health services.

SECTION 3. Tobacco Tax

Article 4 ~~of~~ Chapter 2 of Part 13 of Division 2 (commencing with Section 30132) of the Revenue and Taxation Code, ~~is added~~ to read: is added to

Article 4. The Tobacco Tax of 2006 Trust Fund

§ 30132. The Tobacco Tax of 2006 Trust Fund ("Tobacco Trust Fund") is hereby created in the State Treasury. The fund shall consist of all revenues deposited therein pursuant to this Article, including interest and investment income. Moneys deposited into the Tobacco Tax of 2006 Trust Fund shall be allocated and are continuously appropriated for the exclusive purpose of funding the programs and services in Section 30132.3 and shall be available for expenditure without regard to fiscal years.

§ 30132.1. (a) In addition to the taxes imposed upon the distribution of cigarettes by Article 1 (commencing with Section 30101) and Article 2 (commencing with Section 30121) and Article 3 (commencing with Section 30131) and any other taxes in this Chapter, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of one hundred thirty mills ($0.130) for each cigarette distributed.

(b) For purposes of this Article, the term "cigarette" has the same meaning as in Section 30003, as it read on January 1, 2005.

(c) The tax imposed by this Section, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall be imposed on every cigarette and on all tobacco products in the possession or under the control of every dealer, wholesaler, and distributor on and after 12:01 a.m. on January 1, 2007, pursuant to rules and regulations promulgated by the State Board of Equalization.

§ 30132.2. The State Board of Equalization shall determine within one year of the passage of this Act, and annually thereafter, the effect that the additional tax imposed on cigarettes by this Act, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, have on the consumption of cigarettes and tobacco products in this state. To the extent that a decrease in consumption is determined by the State Board of Equalization to be a

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direct result of the additional tax imposed by this Act, or the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the State Board of Equalization shall determine the fiscal effect the decrease in consumption has on the California Children and Families First Trust Fund created by Proposition 10 (1998). Funds shall be transferred from the Tobacco Trust Fund to the California Children and Families First Trust Fund as necessary to offset the revenue decrease directly resulting from imposition of the additional tax imposed by this Act, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123. The reimbursements shall occur, and at such times, as determined necessary to further the intent of this Section.

§ 30132.3. Except for payments of refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, reimbursement of the State Board of Equalization for expenses incurred in the administration and collection of the tax imposed by Section 30132.1 and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, and transfers of funds in accordance with Section 30132.2, all moneys raised pursuant to the tax imposed by Section 30132.1, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall be deposited in the Tobacco Trust Fund. Moneys shall be allocated and appropriated from the Tobacco Trust Fund, as follows:

(a) To the Health and Disease Research Account, which is hereby created, five percent (5%), allocated to the following Sub-Accounts for the purposes stated therein:

(1) Thirty-four percent (34%) shall be deposited in a Tobacco Control Research Sub-Account, which is hereby created. All funds in the Tobacco Control Research Sub-Account shall be continuously appropriated to the University of California to be used solely to supplement the Tobacco Related Disease Research Program described in Article 2 (commencing with Section 104500) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code. The research funded by the Tobacco-Related Disease Research Program with these supplementary funds shall include, but not be limited to:

(A) Research to improve the effectiveness of tobacco control efforts in California, including programs and strategies for governmental and other organizations to reduce tobacco use and exposure to secondhand smoke; and

(B) Research on the prevention, causes, and treatment of tobacco-related diseases, including, but not limited to coronary heart disease, cerebrovascular disease, chronic obstructive lung disease, and cancer.

(2) Fourteen and one-half percent (14.50%) shall be deposited in a Cancer Registry Sub-Account, which is hereby created. All funds in the Cancer Registry Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for a statewide population-based cancer surveillance system as provided for in Chapter 2 (commencing with Section 103875) of Part 2 of Division 102 of the Health and Safety Code.

(3) Twenty-five and three-fourths percent (25.75%) shall be deposited in a Breast Cancer Research Sub-Account, which is hereby created. All funds in the Breast Cancer Research Sub-

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Account shall be continuously appropriated to the University of California to be used solely for the Breast Cancer Research Program provided for in Article 1 (commencing with Section 104145) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code.

(4) Fourteen and three-fourths percent (14.75%) shall be deposited in a Cancer Research Sub-Account, which is hereby created. All funds in the Cancer Research Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for the Cancer Research Program described in Section 104181 of the Health and Safety Code, with a focus on applied research, which includes but is not limited to, research that is geared towards the accelerated transfer of recent laboratory and clinical technologic advances into primary care, public health and community settings so that the majority of California's population may benefit. This research should be focused on converting recent discoveries into interventions and technologies, proving that they work, and learning how best to apply them.

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(5) Eleven percent (11%) shall be deposited in the Lung Cancer and Lung Disease Research Sub-Account, which is hereby created. All funds deposited in the Lung Cancer and Lung Disease Research Sub-Account shall be continuously appropriated to the University of California to be used solely to provide research grants to develop and advance the understanding, causes, techniques, and modalities effective in the prevention, care, treatment, and cure of lung disease. For purposes of this Section, the lung disease research areas shall include, but not be limited to lung cancer, asthma, tuberculosis, and chronic obstructive pulmonary disease, which includes chronic bronchitis and emphysema.

(b) To the Health Maintenance and Disease Prevention Account, which is hereby created, forty-two and one-fourth of one percent (42.25%), allocated to the following Sub-Accounts for the purposes stated therein:

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(1) Six and three-fourths percent (6.75%) shall be deposited in the Tobacco Control Media Campaign Sub-Account, which is hereby created. All funds in the Tobacco Control Media Campaign Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for media advertisements and public relations programs to prevent and reduce the use of tobacco products as described in paragraph (1) of subdivision (e) of Section 104375 of the Health and Safety Code.

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(2) Four and one-half percent (4.50%) shall be deposited in a Tobacco Control Competitive Grants Sub-Account, which is hereby created. All funds in the Tobacco Control Competitive Grants Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for the competitive grants program directed at the prevention of tobacco-related diseases as described in Section 104385 of the Health and Safety Code.

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(3) Four and one-fourths percent (4.25%) shall be deposited in a Local Health Department Tobacco Prevention Sub-Account, which is hereby created. All funds in the Local Health Department Tobacco Prevention Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for local-health-department-based programs to prevent tobacco use as described in Section 104400 of the Health and Safety Code. Notwithstanding Section 104380 of the Health and Safety Code, funds from the Local Health

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Department Tobacco Prevention Sub-Account shall be appropriated to local lead agencies based on each county's proportion of the statewide population.

(4) One-half percent (0.50%) shall be deposited in a Tobacco Control Evaluation Sub-Account, which is hereby created. All funds in the Tobacco Control Evaluation Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for evaluation of tobacco control programs as required by subdivisions (b) and (c) of Section 104375 of the Health and Safety Code. State

(5) Three and one-half percent (3.50%) shall be deposited in a Tobacco Education Sub-Account, which is hereby created. All funds in the Tobacco Education Sub-Account shall be continuously appropriated to the Department of Education to be used solely for programs to prevent or reduce the use of tobacco products as described in Section 104420 of the Health and Safety Code. Any program receiving funds pursuant to this section must participate in program evaluations conducted by the Department of Health Services pursuant to Article 1 (commencing with Section 104350) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code. At least two percent (2%) of the money in the Tobacco Education Sub-Account shall be used solely for administration of the department's tobacco prevention education program as described in Sections 104420 and 104425 of the Health and Safety Code. State italic

(6) Two and one-fourths percent (2.25%) shall be deposited in the Tobacco Control Enforcement Sub-Account, which is hereby created. All funds in the Tobacco Control Enforcement Sub-Account shall be used solely for programs to enforce tobacco-related statutes and policies, to enforce legal settlement provisions and to conduct law enforcement training and technical assistance activities, and shall be appropriated as follows:

(A) Fifty percent (50%) of the funds in the Tobacco Control Enforcement Sub-Account is continuously appropriated to the Department of Health Services to be used to support programs, including, but not limited to: providing grants to local law enforcement agencies to provide training and funding for the enforcement of state and local tobacco-related laws and policies, including, but not limited to the illegal sales of tobacco to minors, tobacco retailer licensing and exposure to secondhand smoke; and increasing investigative activities, compliance checks and other appropriate activities to reduce illegal sales of tobacco products to minors under the Stop Tobacco Access to Kids Enforcement (STAKE) Act, pursuant to Section 22952 of the Business and Professions Code. State

(B) Twenty five percent (25%) of the funds in the Tobacco Control Enforcement Sub-Account is continuously appropriated to the California Office of the Attorney General to be used for activities including, but not limited to: enforcing laws that regulate the distribution and sale of cigarettes and other tobacco products, such as laws that prohibit cigarette smuggling, counterfeiting, selling untaxed tobacco, selling tobacco without a proper license and selling tobacco to minors; enforcing tobacco-related laws, court judgments and settlements, such as the Tobacco Master Settlement Agreement and the Smokeless Tobacco Master Settlement Agreement, entered into on November 23, 1998, by the State of California and leading United States tobacco product manufacturers, including tracking tobacco industry advertising, marketing, and promotional activities in California, and bringing actions against violators; and

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assisting local law enforcement agencies in the enforcement of tobacco related statutes and local ordinances through technical assistance and training activities.

(C) Twenty-five percent (25%) of the funds in the Tobacco Control Enforcement Sub-Account is continuously appropriated to the State Board of Equalization to be used to enforce laws that regulate the distribution and sale of cigarettes and other tobacco products, such as laws that prohibit cigarette smuggling, counterfeiting, selling untaxed tobacco, and selling tobacco without a proper license.

(7) Eight percent (8%) shall be deposited in a Breast and Cervical Cancer Early Detection Sub-Account, which is hereby created. All funds in the Breast and Cervical Cancer Early Detection Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for breast and cervical cancer prevention and early detection services that result in the reduction of breast and cervical cancer morbidity and mortality in California. These early detection services shall be part of a program that includes a significant quality assurance and improvement component, including patient and provider education, community outreach, and program evaluation. State

(8) Eight and one-half percent (8.50%) shall be deposited in a Heart Disease and Stroke Prevention Sub-Account, which is hereby created. All funds in the Heart Disease and Stroke Prevention Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely for the California Heart Disease and Stroke Prevention Program provided for in Section 104142 of the Health and Safety Code. The intent of this program is to reduce the risk, disability and death from heart disease and stroke. State

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(9) Seven and three-fourths percent (7.75%) shall be deposited in an Obesity Prevention, Nutrition and Physical Activity Promotion Sub-Account, which is hereby created. All funds in the Obesity Prevention, Nutrition and Physical Activity Promotion Sub-Account shall be appropriated as follows:

(A) Seventy percent (70%) shall be continuously appropriated to the State Department of Health Services to support programs and activities to be used solely to prevent obesity, diabetes and chronic diseases through the promotion of community norm change, healthy eating and physical activity. The department shall design, develop and enhance a comprehensive program that includes, but need not be limited to: media advertisements and public relations programs; competitive grants to community based organizations and agencies; grants to local health departments; research and evaluation of program effectiveness; and those provisions contained in Section 104650 of the Health and Safety Code.

(B) Thirty percent (30%) shall be continuously appropriated to the State Department of Education to be used solely to design, develop and support programs and activities to prevent obesity, diabetes and chronic diseases through the promotion of, and access to, healthy eating and physical activity for children and their families within the context of coordinated school health. Such programs and activities shall include but need not be limited to, promotion of, and access to, fruits, vegetables and other healthy foods; promotion of moderate and vigorous physical activity; promotion of health education and physical education; research, surveillance and evaluation of program effectiveness; professional development for teachers and other

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appropriate staff in health education and physical education; and monitoring local educational agencies' compliance with state laws for nutrition and physical education.

(C) The State Department of Health Services, in consultation with the State Department of Education, shall establish an Oversight Committee composed of 13 members selected for their expertise in nutrition, physical activity and education, and related disciplines pertinent to the purposes of this Sub-Account. Membership shall include, but need not be limited to, representation from the following: health and education organizations, public health and local education agencies, advocacy groups, and healthcare professionals and organizations.

The Oversight Committee shall advise the State Department of Health Services and the State Department of Education with respect to policy development and evaluation and provide guidance on strategic priorities, coordination, and collaboration among State agencies with regard to the programs funded by the Obesity Prevention and Nutrition and Physical Activity Promotion Sub-Account.

(10) Four and one-fourths percent (4.25%) shall be deposited in an Asthma Prevention and Control Sub-Account, which is hereby created. All funds in the Asthma Prevention and Control Sub-Account shall be used solely to support asthma assessment, community intervention strategies, training and technical assistance, surveillance, evaluation of asthma prevention and control activities, translational research to implement effective interventions, and school-based asthma education, training and coordination activities. These funds shall be appropriated as follows:

(A) Sixty percent (60%) of the funds in the Asthma Prevention and Control Sub-Account is continuously appropriated to the State Department of Health Services to fund programs and services including, but not limited to those described in Chapter 6.5 (commencing with Section 104316) of Part 1 of Division 103 of the Health and Safety Code, including community childhood asthma programs within the California Asthma Public Health Initiative and asthma surveillance within the Environmental Health Investigations Branch, and to support media advertisements, public relations and other public education activities. Areas in the state that have the highest asthma prevalence, and areas with low socioeconomic status populations shall receive priority consideration in the expenditure of these funds.

(B) Forty percent (40%) of the funds in the Asthma Prevention and Control Sub-Account is continuously appropriated to the State Department of Education to improve the management of asthma within the school setting. Funds shall be for activities and programs, including, but not limited to: statewide coordination of asthma programs and services, the development or purchase and dissemination of educational and training materials, delivery of asthma education and training to school personnel, and the reduction of asthma triggers in the indoor and outdoor school environments. Schools in areas of the state that have the highest asthma prevalence, schools serving low socioeconomic status students and school districts that do not have school nurses shall receive priority consideration in the expenditure of these funds.

(11) Four and one-fourths percent (4.25%) shall be deposited in a Colorectal Cancer Sub-Account, which is hereby created. All funds in the Colorectal Cancer Sub-Account shall be continuously appropriated to the State Department of Health Services to be used solely for the

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Colorectal Cancer Prevention, Detection and Treatment Program described in Article 2.7 (commencing with Section 104195) of Chapter 2 of Part 1 of Division 103 of the Health and Safety Code. The intent of this program is to reduce the incidence, morbidity, and mortality due to colorectal cancer. This program shall include various public health components, including a significant quality assurance and improvement component, patient and provider education, community outreach, and program evaluation. No less than forty percent (40%) of the funds for this program shall be used for those non-clinical public health components.

(12) Forty-five and one-half percent (45.50%) of the Fund shall be deposited in the California Healthy Kids Sub-Account, which is hereby created to ensure that every child in California is eligible for comprehensive, affordable health insurance and has access to needed health care. All moneys in the California Healthy Kids Sub-Account shall be continuously appropriated to the California Health and Human Services Agency only for implementation by the Department of Health Services and the Managed Risk Medical Insurance Board of Chapter 17 (commencing with Section 12693.99) of Part 6.2 of Division 2 of the Insurance Code pursuant to the provisions and restrictions thereof. No less than ninety percent (90%) of the funds appropriated from this Sub-Account shall be used for implementation of Section 12693.99 of the Insurance Code. No more than ten percent (10%) of the funds appropriated from this Sub-Account shall be used for implementation of Section 12693.991 of the Insurance Code.

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(c) To the Health Treatment and Services Account, which is hereby created, fifty-two and three-fourths percent (52.75%), allocated to the following Sub-Accounts for the purposes stated therein:

(1) One and three-fourths percent (1.75%) shall be deposited in a Tobacco Cessation Services Sub-Account, which is hereby created. All funds in the Tobacco Cessation Services Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely to provide tobacco cessation programs and services to assist adult and minor tobacco users to quit tobacco. It is the intent of this Act that this appropriation supports programs and services including, but not limited to counseling, referral and support services, pharmaceutical tobacco cessation products, and training and technical assistance activities.

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(2) One and three-fourths percent (1.75%) shall be deposited in a Prostate Cancer Treatment Sub-Account, which is hereby created. All funds in the Prostate Cancer Treatment Sub-Account shall be continuously appropriated to the Department of Health Services to be used solely to provide for prostate cancer prevention and treatment for low income and uninsured men.

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(3) Five and three-fourths percent (5.75%) shall be deposited in the Community Clinics Uninsured Sub-Account, which is hereby created to fund nonprofit clinic corporations providing vital health care service to the uninsured in accordance with Article 6 (commencing with Section 1246) of Chapter 1 of Division 2 of the Health and Safety Code. All funds in the Community Clinics Uninsured Sub-Account shall be continuously appropriated to the Department of Health Services solely for implementation of Article 6 (commencing with Section 1246) of Chapter 1 of Division 2 of the Health and Safety Code.

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(4)(i) Five and three-fourths percent (5.75%) to the Emergency Care Physician Services Sub-Account, which is hereby created. All funds in the Emergency Care Physician Services Sub-Account shall be continuously appropriated to the Department of Health Services to be administered and allocated for distribution through the California Healthcare for Indigents Program (CHIP), Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(ii) Three-fourths percent (0.75%) to the Rural Emergency Care Physician Services Sub-Account, which is hereby created. All funds in the Rural Emergency Care Physician Services Sub-Account shall be continuously appropriated to the Department of Health Services to be administered and allocated for distribution through the Rural Health Services Program (RHSP), Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(iii) Funds allocated to the Emergency Care Physician Services Sub-Account and Rural Emergency Care Physician Services Sub-Account shall be used only for reimbursement of physicians for losses incurred in providing uncompensated emergency services in general acute care hospitals providing basic, comprehensive or standby emergency services, as defined in Section 16953 of the Welfare and Institutions Code. Funds shall be transferred annually by the Department to the Physician Services Accounts in the county Emergency Medical Services Fund established pursuant to Sections 16951 and 16952 of the Welfare and Institutions Code, and shall be paid only to physicians who directly provide emergency medical services to patients, based on claims submitted or a subsequent reconciliation of claims. Payments shall be made as provided in Sections 16951 to 16599, inclusive, of the Welfare and Institutions Code, and payments shall be made on an equitable basis, without preference to any particular physician or group of physicians. Funds allocated by this Section to counties that have not established an Emergency Medical Services Fund pursuant to Section 16951 shall be deposited into the Department of Health Services EMSA Contract Back Program, to be used only for the reimbursement of uncompensated emergency services, as defined in Section 16953, and payments made, based on claims submitted, in accordance with the procedures and policies established in Sections 16952 through 16959 of the Welfare and Institutions Code.

(5) Three-fourths percent (0.75%) to the Medically Underserved Account created by Business and Professions Code section 2154.4. All funds in the Medically Underserved Account shall be continuously appropriated to the Medical Board of California to promote the practice of medicine in areas of the state underserved by physicians to low-income patients pursuant to the Steven M. Thompson Physician Corps Loan Repayment Program set forth in Article 7.7 (commencing with Section 2154) of Chapter 5 Division 2 of the Business and Professions Code.

(6) Nine percent (9%) to the Nursing Workforce Education Sub-Account, which is hereby created. All funds in the Nursing Workforce Education Sub-Account shall be continuously appropriated to the Office of Statewide Health Planning and Development to be used solely to expand nursing education opportunities and capabilities to meet nursing workforce demands pursuant to Section 128225.5 of the Health and Safety Code. Expenditures from the Nursing Workforce Education Sub-Account shall be made according to the following formula:

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(A) Eighty-six percent (86%) shall be used to support the expansion of California Board of Registered Nursing ("BRN") -approved registered nurse education pre-licensure programs in the California Community Colleges, the California State University and the University of California, and to support the expansion of graduate nursing education programs (MSN, DNSc/PhD), and to support California Advanced Practice Registered Nurse Programs at the California State University and the University of California.

(B) Fourteen percent (14%) shall be used to support the expansion of BRN-approved privately operated registered nurse education pre-licensure programs, the expansion of privately operated graduate nursing education programs (MSN, DNSc/Ph.D.), and to support the expansion of privately operated California Advanced Practice Registered Nurse Programs.

(7) Seventy-four and one-half percent (74.50%) to the Emergency and Trauma Hospital Services Sub-Account, which is hereby created. All funds in the Emergency and Trauma Hospital Services Sub-Account shall be continuously appropriated to the Department of Health Services to further the provision of hospital and medical services to emergency patients in California pursuant to Chapter 4.5 (commencing with Section 1797.300) of Division 2.5 of the Health and Safety Code.

§ 30132.4. All moneys allocated to and deposited in the specific Accounts and Sub-Accounts of the Tobacco Tax of 2006 Trust Fund shall be expended as set forth pursuant to the requirements specific to each Account or Sub-Account as set forth in Section 30132.3. Notwithstanding Government Code section 13340, any moneys allocated and appropriated to any of the Accounts or Sub-Accounts of the Tobacco Tax of 2006 Trust Fund that are not encumbered or expended within any applicable period prescribed by law shall, together with the accrued interest on the amount, revert to and remain in the same Account or Sub-Account for encumbrance and expenditure for the next fiscal period.

§ 30132.5(a) All moneys raised pursuant to the tax imposed by Section 30132.1, and all moneys raised by the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall be appropriated and expended only for the purposes expressed in this Act. Funds appropriated pursuant to this Act shall be used only to supplement existing levels of service and not to supplant funding for existing levels of service. Funds may be used to match available state, federal, or local funds. Except as specified in subdivision (b), no moneys in the Tobacco Tax of 2006 Trust Fund shall be used to supplant state or local General Fund money for any purpose, including back-filling state or local General Fund obligations.

(b) In addition to the provisions of subdivision (a), all moneys raised pursuant to the tax imposed by Section 30132.1, and all moneys raised by the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, shall not supplant the following:

(1) Local funds used to secure state or federal matching funds for any children's health services, children's health, or medical assistance programs, including but not limited to the following: (A) Healthy Families, (B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only, and (C) the Child Health and Disability Prevention Program; but not including funds generated by or expended from the California Children and Families First Trust Fund (Division 108 (commencing with Section 130100) of the Health and Safety Code) or from the

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County Health Initiative Matching Fund (Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code);

(2) State funds used to secure federal matching funds for any children's health services, children's health, or medical assistance programs, including but not limited to the following:

(A) Healthy Families,

(B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only, and

(C) The Child Health and Disability Prevention Program; or

(3) State or federal funds to continue or maintain the amount, duration, scope and structure of benefits that existed as of September 30, 2005 for any children's health services, children's health, or medical assistance programs, including but not limited to the following:

(A) Healthy Families,

(B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only, and

(C) The Child Health and Disability Prevention Program.

(c) It is the intent of the people of the State of California that the Tobacco Tax Act of 2006 shall, in accordance with the purposes and intent of this Act, maximize, and not reduce, federal matching funds made available to the State for children's health coverage under Title XIX and/or Title XXI of the Social Security Act.

(d) No state or local government agency shall consider the revenue supporting emergency services to hospitals provided by this Act in its determination of the amount or rate of payment to hospitals on behalf of patients who are government-sponsored or the responsibility of a governmental agency or body.

§ 30132.6. Notwithstanding any other provision of law, money deposited in the Tobacco Tax of 2006 Trust Fund may not be loaned to, or borrowed by, any other special fund or the General Fund, or a county general fund or any other county fund, for any purpose other than those authorized by the Tobacco Tax Act of 2006.

§ 30132.7. Due to the necessity to rapidly and efficiently implement the mandates of the Tobacco Tax Act of 2006, any contract made pursuant to paragraphs (7) through (11) of subdivision (b), and paragraph (2) of subdivision (c) of Section 30132.3, shall not be subject to Part 2 (commencing with Section 10100) of the Public Contract Code for the first five full years after enactment.

§ 30132.8. At least two percent (2%) of the money appropriated to the State Department of Health Services pursuant to paragraphs (1) through (4) and paragraph (6) of subdivision (b) of Section 30132.3, and paragraph (1) of subdivision (c) of Section 30132.3, shall be used solely for administration of the department's tobacco control programs.

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§ 30132.9. Moneys in the Tobacco Tax of 2006 Trust Fund and any Account or Sub-Account therein, may be used to maximize federal matching funds, so long as all moneys are expended in a manner fully consistent with the Tobacco Tax Act of 2006.

§ 30132.10. To provide full public accountability concerning the uses to which moneys in the Tobacco Tax of 2006 Trust Fund are put, and to ensure full compliance with the Tobacco Tax Act of 2006:

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(a) Beginning with the first full fiscal year after the adoption of the Tobacco Tax Act of 2006, and annually thereafter, the Department of Health Services shall prepare a report describing all programs that received Tobacco Tax of 2006 Trust Fund moneys in the previous fiscal year, and describing in detail the uses to which Fund moneys were put during the previous fiscal year. This report shall be made available to the public on the department's web site, no later than March 31.

(b) All programs and departments receiving moneys from the Tobacco Tax of 2006 Trust Fund are subject to audits by the Bureau of State Audits.

(c) No more than five percent (5%) of the funds appropriated to any Account or Sub-Account created by the Tobacco Tax Act of 2006 may be used for administration, unless a lower amount is specified elsewhere in this Act.

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SECTION 4. Colorectal Cancer Prevention, Detection, and Treatment

Article 2.7 (commencing with Section 104195) is added to Chapter 2 of Part 1 of Division 103 of the Health and Safety Code, to read:

Article 2.7. Colorectal Cancer Prevention, Detection, and Treatment

§ 104195. The Colorectal Cancer Prevention, Detection, and Treatment Program shall be established within the State Department of Health Services.

§ 104195.1. The program shall apply to both of the following groups:

(a) Uninsured and underinsured persons 50 years of age and older with incomes at or below two hundred percent (200%) of the federal poverty level.

(b) Uninsured and underinsured persons below 50 years of age who are at high risk for colorectal cancer according to the most recently published colorectal cancer screening guidelines of the U.S. Preventive Services Task Force and who have incomes at or below two hundred percent (200%) of the federal poverty level.

§ 104195.2. Services provided under this Article shall include, but are not limited to, all of the following:

(a) Screening of men and women for colorectal cancer as an early detection health care measure, in accordance with the most recent cancer screening guidelines of the U.S. Preventive Services Task Force.

(b) After screening, medical referral of the screened person and services necessary for a definitive diagnosis.

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(c) If a positive diagnosis is made, then assistance and advocacy shall be provided to help the person obtain necessary treatment.

(d) Necessary treatment in accordance with the most recent cancer treatment guidelines of the National Comprehensive Cancer Network.

(e) Outreach and health education activities to ensure that uninsured and underinsured persons are aware of, and appropriately utilize, the services provided by the program.

§ 104195.3. The department shall award one or more contracts to provide colorectal cancer screening and treatment through private or public nonprofit organizations, which may include, but shall not be limited to, community-based organizations, local health care providers, and the University of California medical centers.

SECTION 5. Heart Disease and Stroke Prevention Program

Section 104142 is added to Chapter 1 of Part 1 of Division 103 of the Health and Safety Code, to read:

§ 104142.The California Heart Disease and Stroke Prevention Program (CHDSP) is hereby created in the State Department of Health Services. The CHDSP program that is hereby created is consistent with the existing CHDSP program within the department and shall not be duplicated by another cardiovascular disease (CVD) program.

(a) The CHDSP program shall do, but is not limited to, all of the following:

(1) Conduct programs to prevent and reduce risk factors for CVD including, but not limited to, high blood pressure, as provided for in Section 104100, and high cholesterol.

(2) Design, implement, and support programs to improve disease treatment and management, including quality of care for CVD.

(3) Promote and support medical professional development for the prevention and treatment of CVD.

(4) Collect, analyze, and publish data on CVD, which may include the establishment of a heart disease and stroke registry to track the incidence and prevalence of CVD.

(5) Guide the development of public health policies, including linkages with appropriate state agencies, to improve health outcomes from CVD.

(6) Conduct a statewide public education campaign that focuses on the incidence, signs, symptoms, and risk factor reduction strategies for CVD.

(b) The department shall consider, as a priority, the recommendations of the Heart Disease and Stroke Prevention and Treatment Task Force, as provided for in Section 104141.

(c) The department may authorize CVD research, including pilot demonstration projects.

(d) Nothing in this section shall duplicate other programs in the department.

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SECTION 6. Children's Health

Chapter 17 (commencing with Section 12693.99) is added to Part 6.2 of Division 2 of the Insurance Code, to read:

CHAPTER 17. CHILDREN'S HEALTH

§ 12693.99(a) To ensure that every child in California is eligible for comprehensive, affordable health insurance and has access to needed health care, all children described in subdivision (b) shall be eligible for the California Healthy Families Program (Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance Code (hereinafter "Healthy Families").

(b) All children under 19 years of age shall be eligible for the services and benefits provided under this Chapter, notwithstanding paragraph (4) of subdivision (a) of Section 12693.70 and Section 12693.73, if they meet all of the following:

(1) Are in families with countable household income up to and including 300 percent of the federal poverty level. In a family with annual or monthly household income greater than 300 percent of the federal poverty level, any income deduction that is applicable under Medi-Cal shall be applied in determining annual or monthly household income under this Section;

(2) Meet the state residency requirements of Healthy Families in place as of September 30, 2005, as set forth in paragraph (5) of subdivision (a) of Section 12693.70;

(3) Are in compliance with Sections 12693.71 and 12693.72; and

(4) Are not eligible for Healthy Families, or for full-scope Medi-Cal (Chapter 7 (commencing at Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code) without a share of cost, under the eligibility rules in place as of September 30, 2005.

(c) The confidentiality and privacy protections set forth in Sections 10500 and 14100.2 of the Welfare and Institutions Code shall apply to all children seeking, applying for or enrolled in Healthy Families.

(d) Families of children enrolled in Healthy Families through this Chapter shall be required to contribute premiums equal to those required of families of children enrolled in Healthy Families not through this Chapter, subject to the following exceptions:

(1) Families of children up to and including 18 years of age who apply for or are enrolled in Healthy Families and whose countable household incomes are up to and including 100 percent of the federal poverty level shall not be required to contribute any premiums; families of children up to one year of age who apply for or are enrolled in Healthy Families and whose countable household incomes are up to and including 200 percent of the federal poverty level shall not be required to contribute any premiums; and families of children up to and including six years of age who apply for or are enrolled in Healthy Families and whose countable household incomes are up to and including 133 percent of the federal poverty level shall not be required to contribute any premiums.

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(2) Families of children who are enrolled in Healthy Families whose countable household incomes are greater than 250 percent and up to and including 300 percent of the federal poverty level shall be required to contribute premiums at 150 percent of the premiums required for children who are enrolled in Healthy Families whose countable household incomes are greater than 200 percent and up to and including 250 percent of the federal poverty level. The same premium discounts available to children enrolled in Healthy Families whose families have countable incomes of 200 through 250 percent of the federal poverty level shall be available on the same terms to children enrolled in Healthy Families whose families' countable incomes are greater than 250 percent of the federal poverty level.

(e) Less restrictive Healthy Families eligibility requirements than those established at subdivision (b) may be established by the Legislature at any time before or after adoption of this Section. If the Legislature adopts less restrictive eligibility criteria for Healthy Families at any time, such a change shall supersede the eligibility requirements of this Section. Nothing in this Section shall preclude a child from eligibility for Medi-Cal or Healthy Families if less restrictive eligibility criteria are enacted. For purposes of this subdivision, requirements or criteria are considered to be "less restrictive" if, under such requirements or criteria, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.

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§ 12693.991(a) The Managed Risk Medical Insurance Board and the State Department of Health Services (hereinafter "administering agencies") shall continue to administer the Healthy Families and Medi-Cal programs, respectively, for all eligible children. The administering agencies shall coordinate their respective administrations of each program in a cost-effective, coordinated and seamless manner with respect to children seeking, applying for or enrolled in Medi-Cal or Healthy Families. Both administering agencies shall coordinate enrollment, renewal, eligibility, and outreach, and shall assign clear lines of responsibility for all associated agency activities with enforceable accountability. Implementation of duties and responsibilities that require the participation of both agencies shall be done jointly, as coordinated between them by agreement.

(b) The administering agencies, in consultation with the Healthy Kids Oversight and Accountability Commission, shall design and implement streamlined application, enrollment and retention procedures and mechanisms for all benefits available under Healthy Families and Medi-Cal. From the child's perspective there shall appear to be a single program, though the details are handled by two programs and administering agencies. The administering agencies shall implement strategies including at least the following to ensure that all children who are eligible for Healthy Families or Medi-Cal under the eligibility rules in place on September 30, 2005, and all children who are eligible for Healthy Families under this Chapter, receive health insurance:

(1) Simplify paperwork requirements for families to enroll their children and retain coverage as long as they remain eligible by requesting documentation and verifying information only to the extent required under federal law.

(2) Expedite and streamline enrollment by offering enrollment, which may be known as "express lane" or "gateway" enrollment, through entry points such as the National School Lunch

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Program, the California Supplemental Special Nutrition Program for Women, Infants and Children, the Food Stamp Program, and the Child Health and Disability Prevention Program or similar programs; by utilizing the enrollment information provided by families to these other programs, with families' consent and ensuring confidentiality pursuant to subdivision (c) of Section 12693.99 for all children seeking, applying for, and enrolled in Healthy Families or Medi-Cal; and by implementing an electronic gateway system to process that enrollment.

(3) Develop a plan to ensure that eligible, enrolled children do not experience a gap in benefits and to ensure continuity of medical care for children when renewing or transferring between Medi-Cal and Healthy Families, or from a local children's health insurance program (hereinafter "local CHI"). The plan shall include simplifying renewal forms and renewal and transition processes.

(4) Facilitate outreach and education to current and potential beneficiaries, applicants, health care providers, and insurers.

(5) In coordination with the Healthy Kids Oversight and Accountability Commission, and while preserving confidentiality in accordance with subdivision (c) of Section 12693.99, undertake a pilot research demonstration project to test effective strategies, and gather data about the impact of specific efforts, to increase coverage for uninsured children in families with incomes above 300 percent of the federal poverty level; and recommend to the Legislature strategies for increasing coverage for this population based upon the pilot research demonstration project results.

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(6) In coordination with the Healthy Kids Oversight and Accountability Commission, design and implement a process for ensuring a smooth transition for local CHI enrollees to Healthy Families. The transition shall provide that any child who applies for and is determined eligible for Healthy Families pursuant to this Chapter, and who is enrolled in a local CHI both as of enactment of this Chapter and as of his/her Healthy Families eligibility determination, shall be automatically rolled over into his/her existing local CHI health plan under Healthy Families, if the health plan is a participating plan in Healthy Families. For good cause or upon the child's next annual renewal, a child may switch plans or otherwise remain in his/her existing plan. Nothing in this paragraph is intended to delay immediate implementation of this Chapter, including eligibility for Healthy Families.

(7) Maximize federal matching funds available for eligible children's health insurance under Medi-Cal and Healthy Families and implement strategies that coordinate and integrate existing children's health insurance programs to maximize available federal and state matching funds, such as matching funds available for emergency or pregnancy-related Medi-Cal benefits, for all eligible children.

(8) Take any additional steps necessary to ensure that from a child's perspective, Medi-Cal and Healthy Families operate as a single program.

(c) The Healthy Kids Oversight and Accountability Commission is hereby established to guide the implementation and administration of this Chapter; advise the administering agencies on how best to provide affordable health insurance for all children; review financial audits of the

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children's Medi-Cal and Healthy Families programs by the Bureau of State Audits; and identify inefficient practices or waste in the administration or operation of Healthy Families and Medi-Cal and direct anticipated savings back into providing health insurance for more children.

(1) The Commission shall consist of 15 members with expertise in children's health, health insurance and health insurance programs, and shall include representatives from the following categories:

(A) Consumers;

(B) Consumer advocates, including representatives of specific child populations;

(C) Health care providers, including physicians and public hospitals;

(D) Health plans, including local CHIs; and

(E) Other stakeholders, including but not limited to schools, business and organized labor, and county agencies.

(2) The Speaker of the Assembly, the Senate President Pro Tempore, and the Governor shall each appoint five commissioners such that each appoints one commissioner from each of the five categories.

(3) Members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties.

(4) The term of each member shall be three years, to be staggered so that approximately one-third of the appointments expire in each year.

(5) In carrying out its duties and responsibilities, the Commission may do all of the following:

(A) Meet at least once each quarter at any time and location convenient to the public as it may deem appropriate. All meetings of the Commission shall be open to the public.

(B) Establish technical advisory committees such as a committee of parents and guardians.

(C) Advise the Governor and the Legislature regarding actions the state may take to improve access to, enrollment in, retention of, and use of health coverage for children and their families.

(D) Recommend strategies to increase the efficiency of Medi-Cal and Healthy Families, reduce paperwork requirements for benefit administration, and implement electronic gateways and other "express lanes" for increasing enrollment.

(E) Recommend strategies for transitioning children among and between local CHIs, Medi-Cal and Healthy Families.

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(F) Recommend voluntary strategies with employers to maintain or increase employer-sponsored health coverage for employees' dependents under the age of 19 years.

(G) Provide guidance in the development of the pilot research demonstration project for pursuing affordable health insurance or assistance options for uninsured children whose families have incomes over 300 percent of the federal poverty level and, based on the results of the pilot research projects, recommend to the Legislature strategies for increasing coverage for this population.

(H) Study the adequacy of the provider network and seek broad participation from traditional and safety-net providers by recommending strategies to ensure adequate provider reimbursement rates.

(I) Employ all other appropriate strategies necessary or convenient to enable it to fully and adequately perform its duties and exercise the powers expressly granted.

§ 12693.992(a) For the purposes specified in this Chapter and subject to Section 30132.5 of the Revenue and Taxation Code, funds appropriated from the California Healthy Kids Sub-Account established at paragraph (12) of subdivision (b) of Section 30132.3 of the Revenue and Taxation Code shall be used only for:

(1) The provision of children's health insurance, through Healthy Families, only for children defined in subdivision (b) of Section 12693.99; and

(2) Implementation of those measures contained in Section 12693.991.

(b) Funds expended or transferred from the California Healthy Kids Sub-Account shall supplement and not supplant the following:

(1) Local funds used to secure state or federal matching funds for any children's health services, children's health, or medical assistance programs, including but not limited to the following: (A) Healthy Families; (B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only; and (C) the Child Health and Disability Prevention Program; but not including funds generated by or expended from the California Children and Families First Trust Fund (Division 108 (commencing at Section 130100) of the Health and Safety Code) or from the County Health Initiative Matching Fund (Part 6.4 (commencing with Section 12699.50) of Division 2 of the Insurance Code).

(2) State funds used to secure federal matching funds for any children's health services, children's health, or medical assistance programs, including but not limited to the following:

(A) Healthy Families;

(B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only; and

(C) The Child Health and Disability Prevention Program.

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(3) State or federal funds to continue or maintain the amount, duration, scope and structure of benefits that existed as of September 30, 2005 for any children's health services, children's health, or medical assistance programs, including but not limited to the following:

(A) Healthy Families;

(B) Medi-Cal, whether full-scope or emergency or pregnancy-related care only; and

(C) The Child Health and Disability Prevention Program.

(c) The state may not increase a county's share of costs for children's health services unless the state includes adequate funding to fully compensate for such increased costs.

§ 12693.993(a) Nothing in this Chapter is intended to:

(1) Reduce or restrict any existing entitlement under Medi-Cal;

(2) Reduce or restrict the existing eligibility levels or the amount, duration, scope or structure of benefits in place as of September 30, 2005 under either Healthy Families or Medi-Cal;

(3) Create a new entitlement for children enrolled in Healthy Families;

(4) Preclude a child from eligibility for any other children's health insurance, medical service or medical assistance program, including but not limited to restricted Medi-Cal or Medi-Cal with a share of cost;

(5) Preclude a child from eligibility for Healthy Families or Medi-Cal if less restrictive eligibility criteria are enacted;

(6) Reduce or erode children's existing employer-sponsored health insurance coverage;

(7) Restrict any public appropriations or private contributions for the provision of children's health insurance through Medi-Cal or Healthy Families, such as federal financial match for state or county Medi-Cal funding; county, regional or local funding; private foundation grants, and family premium contributions;

(8) Prohibit eligibility for Medi-Cal or Healthy Families based on concurrent eligibility for a local CHI; nor

(9) Create or require creation of a new state department or agency.

(b) The State Department of Health Services and the Managed Risk Medical Insurance Board may explore and utilize any options available under federal law to allow the use of charitable or other funding by private and public not-for-profit organizations as a match for federal funds for use in the provision of coverage consistent with the provisions of this Chapter.

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SECTION 7. Community Clinics

Article 6 (commencing with Section 1246) is added to Chapter 1 of Division 2 of the Health and Safety Code, to read:

Article 6. Community clinics

§ 1246(a) Funds in the Community Clinics Uninsured Sub-Account established at paragraph (3) of subdivision (c) of Section 30132.3 of the Revenue and Taxation Code shall be administered by the Department of Health Services solely for the purposes of this Section. The department shall allocate the funds for eligible non-profit clinic corporations providing vital health care services, including services related to smoking cessation programs to assist smokers to quit smoking, and educational efforts related to tobacco prevention, to the uninsured. The funds shall be allocated by the Department pursuant to the provisions of this Section.

(b) Annually, commencing August 1, 2007, the Department shall allocate to each eligible non-profit clinic corporation a percentage of the balance present in the Community Clinics Uninsured Sub-Account as of July 1 of the year the allocations are made based on the formula provided for in subdivision (c) and subject to subdivision (d).

(c) Funds in the Community Clinics Uninsured Sub-Account shall be allocated only to eligible non-profit clinic corporations. Funds in the Community Clinics Uninsured Sub-Account shall be allocated to eligible non-profit clinic corporations on a percentage basis based on the total number of uninsured patient encounters.

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(1) For purposes of this Section, an "eligible non-profit clinic corporation" shall meet both of the following requirements:

(A) The corporation shall consist of non-profit free and community clinics licensed pursuant to subdivision (a) of Section 1204 or of clinics operated by a federally recognized Indian tribe or tribal organization and exempt from licensure pursuant to subdivision (c) of Section 1206.

(B) The corporation must provide at least 1,000 uninsured patient encounters based on data submitted to the Office of Statewide Health Planning and Development pursuant to the reporting procedures established under Section 1216 for the year the allocations are made.

(2) The total number of uninsured patient encounters shall be based on data submitted by each eligible non-profit clinic corporation to the Office of Statewide Health Planning and Development pursuant to the reporting procedures established under Section 1216. Beginning August 1, 2007 and every year thereafter, the allocations shall be made by the department based on data submitted by each eligible non-profit clinic corporation to the Office of Statewide Health Planning and Development by February 15 of the year the allocations are made.

(3) For purposes of this Section, except as otherwise provided in paragraph (4), an uninsured patient encounter shall be defined as an encounter for which the patient has no public or private third party coverage. An uninsured patient encounter shall also include encounters involving patients in programs operated by counties pursuant to Part 4.7 (commencing with Section 16900) and Part 5 (commencing with Section 17000) of Division 9 of the Welfare and

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Institutions Code. An uninsured patient encounter must consist of a primary and preventive health care service, including tobacco cessation and prevention services, and specialty care services traditionally provided by comprehensive primary care providers.

(4) Each uninsured patient encounter shall count as one encounter, except that the encounters involving patients in programs operated pursuant to paragraph (1) of subdivision (aa) of Section 14132 and Division 24 (commencing with Section 24000) of the Welfare and Institutions Code, and pursuant to Article 6 (commencing with Section 124025) of Chapter 3 of Part 2 of Division 106 of the Health and Safety Code shall count as 0.15 encounter for purposes of determining the total number of uninsured patient encounters for each eligible non-profit clinic corporation.

(5) The Department shall compute each eligible non-profit clinic corporation's percentage of total uninsured patient encounters for all eligible non-profit clinic corporations. The Department shall then apply these percentages to the available funds in the Sub-Account to compute a preliminary allocation amount for each eligible non-profit clinic corporation. Final allocation amounts will be created pursuant to paragraph (6).

(6) Final allocation amounts shall be determined as follows:

(A) If the preliminary allocation for an eligible non-profit clinic corporation is equal to or less than twenty-five thousand dollars ($25,000), the allocation for that eligible non-profit corporation shall be twenty-five thousand dollars ($25,000).

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(B) For all eligible non-profit clinic corporations with preliminary allocations of more than twenty-five thousand dollars ($25,000), the Department shall compute each such eligible non-profit clinic corporation's percentage of the total uninsured patient encounters and apply the percentage to the remaining funds available to determine the final allocation amount for each such eligible non-profit clinic corporation, subject to subparagraph (C).

(C) No eligible non-profit clinic corporation shall receive an allocation in excess of two percent (2%) of the total monies distributed to all eligible non-profit clinic corporations in that year. Allocations that are subject to the two percent (2%) limit shall be reallocated to those other eligible non-profit clinic corporations receiving allocations under subparagraph (B) utilizing the methodology in paragraphs (3) and (4), but provided that reallocations shall not make any final allocation surpass the two percent (2%) limit.

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(d) The Department of Health Services shall be reimbursed from the Community Clinics Uninsured Sub-Account for the Department's actual cost of administration. The total amount available for reimbursement of the Department's administrative costs shall not exceed one percent (1%) of the monies credited to the Sub-Account during the fiscal year.

¶ SECTION 8. Nursing Workforce Education Investment

Section 128224.5 ~~of~~ the Health and Safety Code is added to read: to

§ 128224.5(a) The California Healthcare Workforce Policy Commission shall oversee the plan for and distribution of funds in the Nursing Workforce Education Sub-Account created by paragraph (6) of subdivision (c) of Section 30132.3 of the Revenue and Taxation Code. A state nursing contract program with accredited schools and programs that educate students seeking

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degrees in nursing, including associate degree programs ("ADN"), bachelor of science degree programs ("BSN"), master's degree programs ("MSN"), programs for Advanced Practice Registered Nurses, and higher graduate nursing education programs ("DNSc/PhD"), shall be developed to create, expand and improve programs to educate students to become practicing registered nurses, nurses with advanced clinical skills, nurse managers, and faculty for schools of nursing. Priority shall be given to programs that increase the number and types of nursing student graduates and educators most likely to meet the state's most pressing needs for registered nurses.

(b) The California Healthcare Workforce Policy Commission shall recommend to the director the California Board of Registered Nursing ("BRN") -approved registered nurse education programs and California graduate nursing education programs (MSN, DNSc/Ph.D.) that shall be funded under subdivision (a) ~~of this Section~~. For purposes of this Section the term "Advanced Practice Registered Nurse Programs" refers to programs that educate nurses with advanced clinical skills, including, but not limited to, nurse anesthetists, clinical nurse specialists, nurse practitioners, nurse midwives, and public health nurses.

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Section 128225.5 ~~of~~ the Health and Safety Code is added to read:

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§ 128225.5. The director shall utilize the funds appropriated to implement the recommendations of the California Healthcare Workforce Policy Commission pursuant to Section 128224.5; and to reimburse the office and the commission for all reasonable, actual, direct administrative costs incurred to implement this Section, not to exceed one percent (1%) of the amount deposited into the Nursing Workforce Education Sub-Account for the same period. The director shall utilize all funds appropriated to the extent reasonably possible. To the extent any funds appropriated are not utilized, or after being committed are returned or remain unspent for any reason, such funds shall remain in or shall be re-deposited into the Nursing Workforce Education Sub-Account for appropriation and use for the same purpose as provided in paragraphs (6)(A) or (6)(B) of subdivision (c) of Section 30132.3 of the Revenue and Taxation Code, as appropriate.

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SECTION 9. Emergency and Trauma Hospital Services

Chapter 4.5 (commencing with Section 1797.300) is added to Division 2.5 of the Health and Safety Code, to read:

CHAPTER 4.5 HOSPITAL EMERGENCY SERVICES

Article 1. The Emergency and Trauma Hospital Services Sub-Account

§ 1797.300. To support the public's need for hospital emergency services, the department shall administer funds made available to hospitals for such services as provided by this Chapter.

§ 1797.301(a) The department shall calculate each eligible hospital's funding percentage to be used for the next calendar year based upon the information submitted by such hospital

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pursuant to Section 1797.302 and notify each eligible hospital of its proposed funding percentage no later than June 15 of each calendar year.

(b) The department shall receive and review the accuracy and completeness of information submitted by eligible hospitals pursuant to Section 1797.302. The department shall develop a standard form to be utilized for reporting such information by eligible hospitals, but shall accept information from eligible hospitals that is not reported on such standard form. The department shall allow hospitals to report such information electronically no later than April 30, 2008.

(c) The department shall notify each hospital submitting the information specified under subdivision (a) of Section 1797.302 in writing through a communication delivered by no later than April 30 each year confirming the information it has from such hospital and of any apparent discrepancies in the accuracy, completeness, or legibility of information submitted by such hospital pursuant to Section 1797.302. Unless such written notice is timely delivered to an eligible hospital, the information it reports pursuant to Section 1797.302 shall be deemed to be complete and accurate, but shall be subject to audit under subdivision (f).

(d) A hospital that receives notice from the department that the information it reported was not accurate, complete, or legible shall have 30 days from the date the notice is received to provide the department with correct, complete and legible information. Such corrected or supplemental information shall be used by the department to make the calculation required by subdivision (a), but shall be subject to audit under subdivision (f). A hospital that does not provide sufficient legible information to establish that it qualifies as an eligible hospital or to allow the department to make the calculation required under subdivision (a) shall not be an eligible hospital.

(e) The department may enter into an agreement with the Office of Statewide Health Planning and Development or another state agency or private party to assist it in analyzing information reported by eligible hospitals and making the hospital funding allocation computations as provided under this Chapter.

(f) To ensure that the funds received by hospitals are utilized for the purpose specified in this Article, the department shall audit the use by eligible hospitals of any funds received pursuant to Section 1797.304, and the accuracy of data on emergency department patient encounters and other information any hospital reports under this Article, as follows: the department shall randomly select twenty percent (20%) of all eligible hospitals each year for audit of the information they submit. Additionally, the department may conduct a field audit of the use of funds or information submitted by any hospital. If the department determines upon audit that any funds received were improperly used, or that inaccurate data were reported by the eligible hospital resulted in an allocation of excess funds to the eligible hospital, the department shall recover any excess amounts allocated to, or any funds improperly used by, the eligible hospital. The department may impose a fine of not more than twenty-five percent (25%) of any funds received by the eligible hospital that were improperly used, or the department may impose a fine of not more than two times any amounts improperly used or received by the eligible hospital if it finds such amounts were the result of gross negligence or intentional misconduct in reporting data or improperly using allocated funds under this Article on the part of the hospital.

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Any fines imposed by the department shall be stayed if appealed by the hospital pursuant to subdivision (g) until judgment by a court of final jurisdiction. In no event shall a hospital be subject to multiple penalties for both improperly using and receiving the same funds.

(g)(1) A licensed hospital owner shall have the right to appeal the imposition of any fine by the department, or a determination by the department that its hospital is not an eligible hospital, for any reason, or an alleged computational or typographical error by the department resulting in an incorrect allocation of funds to its hospital under Section 1797.304. A hospital shall not be entitled to be reclassified as an eligible hospital or to have an increase in funds received under this Chapter based upon subsequent corrections to its own final reporting of incorrect data used to determine funding allocations under this Article.

(2) Any such appeal shall be heard before an administrative law judge employed by the Office of Administrative Hearings. The hearing shall be held in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The decision of the administrative law judge shall be in writing; shall include findings of fact and conclusions of law; shall be final; and shall be subject to appeal as provided by Section 11523 of the Government Code. The decision of the administrative law judge shall be made within 60 days after the conclusion of the hearing and shall be effective upon filing and service upon the petitioner.

(3) The appeal rights of hospitals under this subdivision (g) shall not be interpreted to preclude any other legal or equitable relief that may be available.

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(h) Any fines or other recoveries collected by the department shall be deposited in the Emergency and Trauma Hospital Services Sub-Account within the Tobacco Tax Fund for allocation to eligible hospitals in accordance with the provisions of Section 1797.304. Such funds shall not be used for administrative costs, and shall be supplemental to, and shall not supplant, any other funds available to be allocated from such Sub-Account to eligible hospitals.

(i) In the event it is determined, upon a final adjudicatory decision that is no longer subject to appeal, that a hospital has been incorrectly determined to not qualify as an eligible hospital, or was allocated an amount less than the amount to which it is entitled under Section 1797.304, the department shall, from the next allocation of funds to hospitals under Section 1797.304, allocate to such hospital the additional amount to which it is entitled, and reduce the allocation to all other eligible hospitals pro rata.

§ 1797.302(a) Each hospital seeking designation as an eligible hospital shall submit the following information to the department by no later than February 15 of each year, commencing the first February 15 following the operative date of this Act:

(1) The number of emergency department encounters that took place in the hospital's emergency department during the preceding calendar year;

(2) The total amount of charity care costs of the hospital for the preceding calendar year;

(3) The total amount of bad-debt costs of the hospital for the preceding calendar year;

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(4) The total amount of county indigent program effort costs of the hospital for the preceding calendar year;

(5) If requested, a photocopy of the hospital's operating license from the State Department of Health Services or equivalent documentation establishing that it operates a licensed emergency department;

(6) A declaration of commitment to provide emergency services and training as required by subdivision (a) of Section 1797.303.

(b) Both pediatric and adult patients shall be included in the data submitted. The accuracy of the data shall be attested to in writing by an authorized senior hospital official. No other data or information shall be required by the department to be reported by eligible hospitals for purposes of this Chapter.

(c) Each hospital seeking status as an eligible hospital under this Chapter that receives a preponderance of its revenue from a single associated comprehensive group practice prepayment health care service plan shall report information required by this section for all patients, and not just for patients who are not enrolled in an associated health care service plan.

§ 1797.303(a) An eligible hospital shall, throughout each calendar quarter in which it receives an allocation pursuant to Section 1797.304:

(1) Maintain an operational emergency department available within its capabilities and licensure to provide emergency care and treatment, as required by law, to any pediatric or adult member of the public who has an emergency medical condition.

(2) Do all of the following:

(A) Participate in a minimum of two disaster-training exercises annually;

(B) Provide training and information as appropriate to the hospital's medical staff, nurses, technicians and administrative personnel regarding the identification, management, and reporting of emergency medical conditions and communicable diseases, as well as triage procedures in cases of mass casualties;

(C) Collaborate with state and local emergency medical services agencies and public health authorities in establishing communications procedures in preparation for and during a disaster situation; and

(D) Establish and maintain an emergency and disaster management plan. This plan shall include response preparations to care for victims of terrorist attacks and other disasters. The plan shall be made available by the hospital for public inspection.

(b) It is the policy of the state to encourage hospitals to work cooperatively to develop regional plans for assuring maximum availability of emergency services to all patients, and to share equitably in the provision of emergency services to uninsured and low income under-insured patients in achieving such maximum availability of emergency services.

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(1) Each hospital receiving funds under this Chapter that operates a basic or comprehensive licensed emergency department may participate in the development of a regional or other local plan for equitably sharing responsibility for providing emergency services to uninsured and low-income underinsured patients arriving at the hospital via ambulance. Any such plan may be developed under the auspices of a hospital association or through other cooperative arrangements, and shall be submitted to the county or other local emergency services authority for approval and continuing oversight of implementation.

(2) Each hospital receiving funds under this Chapter may work cooperatively with one or more other hospitals to develop a plan for providing maximum coverage of specialty medical services. Any such plan may include such items as coordinated coverage of particular medical specialty services; alternate coverage of particular medical specialty services; and joint programs for the payment of coverage fees to physician specialists for providing on-call coverage of emergency services. Any such plan shall be submitted to and approved by the county or other local emergency services authority for approval and continuing oversight of implementation.

(3) To the extent that any hospital or hospitals work cooperatively in developing and implementing the plans for providing emergency services described in this Section, the people intend that such hospital or hospitals shall incur no liability under federal or state antitrust or other anti-competition laws prohibiting combinations in restraint of trade, including, without limitation, the provisions of Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

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(c) Any funds received by an eligible hospital under this Article shall not be used in the determination of uncompensated costs for the purpose of the limitation on payment adjustments described in Section 1923(g) of the Social Security Act and any provision of state law which incorporates such limitation, to the extent consistent with federal law.

§ 1797.304(a) Funds deposited in the Emergency and Trauma Hospital Services Sub-Account, together with all interest and investment income earned thereon, shall be continuously appropriated without regard to fiscal years to and administered by the state Department of Health Services. The department shall allocate the funds solely to eligible hospitals as provided by this Article.

(b) Quarterly, commencing June 30 following the operative date of this Chapter, the department shall allocate to each eligible hospital a percentage of the balance of the Hospital Sub-Account equal to such hospital's funding percentage, as determined by the department pursuant to Section 1797.301, except as follows:

(1) The annual aggregate allocation to all hospitals that receive a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan shall not exceed forty million dollars ($40,000,000.00) during any calendar year, and the department shall reduce the quarterly allocation to each such hospital pro rata, if and to the extent necessary, to contain the aggregate allocation to all such hospitals within any calendar year to a maximum of forty million dollars ($40,000,000.00). The maximum annual aggregate allocation shall be applied by the department in increments of no more than ten million dollars ($10,000,000.00) to each of the first three quarterly distributions of each calendar year, but no

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specific portion of the limit on maximum annual aggregate distributions provided by this subsection shall apply to other quarterly distributions to such hospitals.

(2) The maximum aggregate annual allocation of forty million dollars ($40,000,000.00) to all hospitals that receive a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan set forth in paragraph (1) above shall be adjusted upward or downward annually, together with corresponding changes in any quarterly limits, commencing on January 1, 2009, by the same percentage increase or decrease in the aggregate amount deposited in the Hospital Sub-Account for the immediate prior calendar year against the aggregate amount deposited in the Hospital Sub-Account during the 2007 calendar year. Any adjustment that increases or decreases the maximum aggregate annual allocation to such hospitals shall be applied only to the then current calendar year.

(3) After making the adjustment to the maximum aggregate annual allocation to hospitals that receive a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan provided by paragraph (2) above, the department shall further adjust such maximum aggregate annual allocation by increasing or decreasing it by a percentage factor equal to the percentage increase or decrease in the aggregate funding percentage by all hospitals receiving a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan in the 2007 calendar year against the aggregate funding percentage of all hospitals associated with the same health care service plan for the most recent calendar year.

(4) After making the adjustments to the allocation of funds as provided by paragraphs (1) through (3) above, the department shall allocate any funds remaining in the Hospital Sub-Account to hospitals that do not receive a preponderance of their revenue from the same associated comprehensive group practice prepayment health care service plan pro rata based upon their respective funding percentages.

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(c) Prior to each allocation under subdivision (b), the actual costs of the department (including any costs to the department resulting from the charges under Section 11527 of the Government Code) for administering the provisions of this Chapter shall be reimbursed from the Hospital Sub-Account. The aggregate funds withdrawn for all administrative costs under this subdivision shall not exceed one half of one percent (0.5%) of the total amounts deposited in the Hospital Sub-Account (not including any fines collected under subdivision (h) of Section 1797.301) during the prior quarter.

(d) An eligible hospital shall use the funds received under this Section only to further the provision of emergency services by such means as payment for the unreimbursed cost of providing emergency services and improving or expanding emergency services, facilities, or equipment. Such funds may not be used to pay for more than the hospital's unreimbursed costs of providing emergency services, and no funds may be used to pay the hospital for providing emergency services where it receives payment for providing such services and has agreed to accept such payment as payment in full. No funds may be used for the compensation of hospital management executives, except for personnel who work full time in hospital emergency departments. No funds may be used for equipment or capital improvements not directly related to the improvement of hospital emergency department facilities or critical care units. An eligible

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hospital owned by a public entity may use funds it receives under this Chapter to secure federal matching funds under the Medi-Cal program, or any other federal or state health program that includes coverage of emergency services and reduces the burden of providing uncompensated emergency services by hospitals and physicians.

(e)(1) A hospital may not utilize funds received under this Article to supplement payments physicians receive for services to patients enrolled in the Medicare or Medi-Cal programs, but may use such funds to provide payments to physicians for on-call coverage of emergency services to all patients, including those enrolled in the Medicare or Medi-Cal programs, as provided by subparagraph (2) below. Such payments to physicians for on-call coverage shall not be considered payments for services.

(2) A hospital, in its sole discretion, may utilize funds it receives under this Chapter to provide compensation to a physician that is fair and reasonable for providing on-call coverage of emergency services only if the governing board of the hospital makes the following findings:

(A) The amount or rate of payment is reasonable and necessary for the hospital to maintain coverage of medical services to care for patients entering the hospital through the emergency department, or patients who have emergent conditions requiring the services of on-call physicians while in the hospital; and

(B) The method and amount of compensation to any physician or physicians is in compliance with applicable law.

(3) The governing board of a hospital, in its sole discretion, prior to entering into an agreement to compensate one or more physicians for on-call coverage of emergency services may obtain the opinion of an independent financial analyst with expertise in the hospital industry that the proposed amount or rate of payment to compensate physicians under the proposed agreement is fair and reasonable under the circumstances. If a hospital governing board elects to obtain such an opinion, it shall notify the department in writing, and the department shall, within ten days of receiving the hospital's written request, provide the hospital with the names of three independent financial analysts (which may be individuals or firms) from a list of such independent financial analysts qualified to issue such an opinion it establishes and maintains. The hospital shall provide the list of the independent financial analysts it receives from the department to the Executive Committee of the hospital's organized medical staff, and the medical staff Executive Committee shall have fifteen (15) days to review the list and make a peremptory challenge of one of the independent financial analysts by notifying the hospital's governing board in writing. The hospital governing board may make a peremptory challenge to one of the independent financial analysts. If two of the three independent financial analysts are subject to a peremptory challenge, the hospital governing board may retain only the remaining independent financial analyst. If more than one independent financial analyst is not subject to a peremptory challenge, the hospital shall so notify the department, and the department shall select one of the remaining independent financial analysts by lottery. In such event, the hospital may retain only the independent financial analyst selected by lottery, unless the governing board of the hospital and the medical staff Executive Committee agree upon the retention by the hospital of one of the other independent financial analysts on the list of the three financial analysts

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provided to the hospital by the department. The selected independent financial analyst may charge the hospital a reasonable fee to issue a written opinion to the hospital governing board as to whether the proposed amount or rate of payment is fair and reasonable under the circumstances. In the event such independent financial analyst opines that the proposed amount or rate of payment is not fair and reasonable, upon request, the independent financial analyst may describe a range of payment amounts and rates that are fair and reasonable, under the circumstances, for the hospital to pay various types of physicians for on-call coverage. The hospital may not pay an amount or rate for on-call coverage of emergency services by a physician that is higher than any amount or rate determined to be fair and reasonable by the opinion of such independent financial analyst, nor shall the hospital pay less than its highest written offer to the physician or physicians that is fair and reasonable.

(4) A hospital may compensate a physician for providing on-call emergency services coverage only through a written agreement.

(5) The requirements of this subdivision relate only to the use of funds eligible hospitals received under this Article, and do not apply to the use of other funds by hospitals to pay for on-call coverage of emergency services by physicians.

(f) Nothing in this Chapter shall be construed to prevent a hospital, in its sole discretion, from providing reasonable compensation to a physician for providing emergency physician staffing for the emergency department in a manner consistent with the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

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(g) The hospital governing board, in consultation with the hospital's medical staff, shall ensure the appropriate coverage of medical services within its capabilities to meet the emergency services needs of its patients as required by law.

§ 1797.305. The following definitions shall apply to terms utilized in this Chapter:

(a) "Bad-debt cost" means the aggregate amount of accounts and notes receivable accounted for during a calendar year by an eligible hospital as credit losses, using any method generally accepted for estimating such amounts on the date this Act became effective, based on patients' unwillingness to pay, and multiplied by the eligible hospital's cost-to-charges ratio.

(b) "County indigent program effort cost" means the amount of care during a calendar year by an eligible hospital, expressed in dollars and based upon the hospital's full established rates, provided to indigent patients for whom a county is responsible, whether the hospital is a county hospital or a non-county hospital providing services to indigent patients under arrangements with a county, multiplied by the eligible hospital's cost-to-charges ratio.

(c) "Charity care" means that portion of care provided by a hospital to a patient for which a third party payer is not responsible and the patient is unable to pay, and for which the hospital has no expectation of payment.

(d) "Charity-care cost" means amounts actually written off, using any method generally accepted for determining such amounts on the date this Act became effective, by an eligible

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hospital during a calendar year for that portion of care provided to a patient for whom a third-party payer is not responsible and the patient is unable to pay, multiplied by the hospital's cost-to-charges ratio.

(e) "Charity care policy" means a policy adopted by the hospital establishing eligibility criteria for charity care services provided by the hospital.

(f) "Cost-to-charges ratio" means a ratio determined by dividing an eligible hospital's operating expenses less other operating revenue by gross patient revenue for its most recent reporting period.

(g) "Operating expenses" means the total expenses incurred for providing patient care by the hospital. Operating expenses include (without limitation) salaries and wages, employee benefits, professional fees, supplies, purchased services, depreciation, leases, interest and other expenses.

(h) "Other operating revenue" means revenue generated by health care operations from non-patient care services to patients and others.

(i) "Gross patient revenue" means the total charges at the hospital's full established rates for the provision of patient care services and includes charges related to hospital-based physician professional services.

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(j) "Eligible hospital" or "hospital" means a hospital licensed to a public or private entity or person under subdivision (a) of Section 1250 of the Health and Safety Code, including without limitation, any hospital licensed to any county, city, hospital district, or the Regents of the University of California (but not including any hospital licensed to a department of the State of California, or to the federal government) which either operates an emergency department or is a children's hospital as defined in Section 10727 of the Welfare and Institutions Code.

(k) "Emergency department encounter" or "emergency department visit" means a face-to-face contact between a patient and the provider who has primary responsibility for assessing and treating the patient in an emergency department and exercises independent judgment in the care of the patient. An emergency department encounter or visit is counted for each patient of the emergency department, regardless of whether the patient is admitted as an inpatient or treated and released as an outpatient. An emergency department encounter or visit shall not be counted where the patient received triage services only.

(l) "Emergency services" or "hospital emergency services" means all services provided to patients in a hospital emergency department and all other patient services related to treatment of an emergent medical condition in any department or unit of a hospital, including, without limitation, any procedures necessary to avoid loss of life, serious disability, or severe pain until the patient has been stabilized and transferred to another health facility or discharged.

(m) "Office" means the Office of Statewide Health Planning and Development.

(n) "Department" means the state Department of Health Services.

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(o) "Funding percentage" means the sum of (1) an eligible hospital's percentage of hospital emergency care (as defined in subdivision (s) below) multiplied by a factor of .50, added to (2) such hospital's percentage of effort (as defined in subdivision (p) below) multiplied by a factor of .50, the sum to be expressed as a percentage.

(p) "Hospital Sub-Account" or "Emergency and Trauma Hospital Services Sub-Account" means the Emergency and Trauma Hospital Services Sub-Account of the Tobacco Tax Fund established pursuant to paragraph (7) of subdivision (c) of Section 30132.3 of the Revenue and Taxation Code.

(q) "Tobacco Tax Fund" means the Tobacco Tax of 2006 Trust Fund established pursuant to Section 30132 of the Revenue and Taxation Code.

(r) "Percentage of effort" means the sum of an eligible hospital's total amount of charity care cost plus that hospital's total amount of bad-debt cost plus that hospital's county indigent program effort cost, as a percentage of the sum of the total amount of charity care cost plus the total amount of bad-debt cost plus the total county indigent program effort cost reported in final form to the department by all eligible hospitals for the same calendar year.

(s) "Percentage of hospital emergency care" means an eligible hospital's total emergency department encounters for the most recent calendar year for which such data has been reported to the department in final form, as a percentage of all emergency department encounters reported in final form by all eligible hospitals for the same calendar year. In the case of a children's hospital that does not operate an emergency department and provides emergency treatment to a patient under twenty-one years of age under arrangements with an emergency department of a hospital that is: (1) located within 1,000 yards of the children's hospital; and (2) is either (A) under common ownership or control with the children's hospital, or (B) has contracted with the children's hospital to provide emergency services to its patients under twenty-one years of age, the children's hospital providing emergency services to such patient shall receive credit for the emergency department encounter, and not the hospital operating the emergency department.

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(t) "Unreimbursed cost of providing emergency service" means the difference between the hospital's cost of providing emergency services, determined by multiplying its gross patient charges for providing such services by its cost-to-charges ratio, and the amount it actually receives for providing such services, where the hospital has not agreed to accept the payment it receives as payment in full.

(u) "Physician" means a physician and surgeon licensed under the Medical Practice Act, Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code.

§ 1797.306. A hospital receiving funds under this Chapter shall maintain a written record of its use of all such funds, which shall be available to the department upon request, and available for inspection upon written request by the public. A hospital shall return to the department any funds it receives under this Chapter that it does not use for the purposes specified within one year of receipt or, in the case of a capital project, are not committed within two years of receipt by the governing board for a specific use. Any unused funds returned to the department shall be deposited in the Emergency and Trauma Hospital Services Sub-Account

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within the Tobacco Tax of 2006 Trust Fund for allocation to eligible hospitals in accordance with the provisions of Section 1797.304.

§ 1797.307. The department may promulgate and adopt regulations to implement, interpret and make specific the provisions of this Article pursuant to the provisions of the Administrative Procedures Act as set forth in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The department shall have no authority to promulgate quasi-legislative rules, or to adopt any rule, guideline, criterion, manual, order, standard, policy, procedure or interpretation that is inconsistent with the provisions of this Chapter. This Section shall not be interpreted to allow the department to adopt regulations (as defined by Section 11342.600 of the Government Code) in contravention of Section 11340.5 of the Government Code.

§ 1797.308. No hospital may receive funds under this Chapter unless it complies with the provisions of Article 2 (commencing with Section 1797.309), relating to financial assistance to certain low-income patients.

Article 2. Hospital Charity Care and Financial Assistance Policies

§ 1797.309. For purposes of this Article the following definitions shall apply:

(a) "Allocation" means an allocation of funds received by a hospital under Article 1 (commencing with Section 1797.300) of this Chapter.

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(b) "Discounted payment" means the payment amount after application of a discount from its full charges for services offered by a hospital to patients who have no or inadequate insurance and qualify under the hospital's discount payment policy.

(c) "Discount payment policy" means a policy adopted by the hospital establishing eligibility criteria for receiving services for a discounted payment.

(d) "Federal poverty level" means the most recent poverty guidelines periodically adopted by the federal Department of Health and Human Services for determining financial eligibility for participation in various programs based upon family size as applicable to California.

(e) "Hospital" means an "eligible hospital," as defined by subdivision (j) of Section 1797.305.

§ 1797.309.5. Each hospital shall comply with the provisions of this Article throughout each calendar year in which it receives an allocation. The requirements of this Article are applicable only to hospitals receiving an allocation , and shall not be construed to limit the ability of the legislature to enact charity care or discount payment policies applicable to all acute hospitals as a condition of licensure or participation in any other state program.

§ 1797.310(a) Each hospital shall maintain an understandable, written charity care policy and discount payment policy for low-income patients with no or inadequate insurance.

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(b) Each hospital's charity care policy and discount payment policy shall clearly state eligibility criteria based upon the income and monetary assets of the patient, or consistent with the application of the federal poverty level, the patient's family. In determining such eligibility, a hospital may consider income and monetary assets of the patient, or the family of the patient. For purposes of such determination, monetary assets shall not include retirement or deferred-compensation plans qualified under the Internal Revenue Code, or non-qualified deferred compensation plans. Furthermore, the first ten thousand dollars ($10,000) of a patient's or a patient's family's monetary assets shall not be counted in determining eligibility; nor shall fifty percent (50%) of such assets over the first ten thousand dollars be counted in determining eligibility. The policy shall also state the process used by the hospital to determine whether a patient is eligible for charity care or discounted payment.

(c) Patients who are at or below three hundred fifty percent (350%) of the federal poverty level shall be eligible to apply for participation under each hospital's charity care policy or discount payment policy. However, rural hospitals, as defined by Section 124840, may establish eligibility levels for financial assistance and charity care at less than three hundred fifty percent (350%) of the federal poverty level as appropriate to maintain their financial and operational integrity.

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(d) Absent any regulatory prohibition, each hospital shall limit expected payment for services it provides to any patient at or below three hundred fifty percent (350%) of the federal poverty level eligible under its discount payment policy to the greater of the amount of payment the hospital would receive for providing such services from Medicare or any other government-sponsored health program of health benefits in which the hospital participates. If the hospital provides a service for which there is no established payment by Medicare or any other government-sponsored program of health benefits in which the hospital participates, the hospital shall establish an appropriate discounted payment.

(e) A hospital shall use its best efforts to ensure all financial assistance policies are applied consistently.

(f) Any patient, or the patient's legal representative, seeking either charity care or discounted payment shall provide the hospital with information concerning health benefits coverage, financial status and other information that is reasonable and necessary for the hospital to make a determination regarding the patient's status relative to the hospital's charity care policy, discount payment policy, or eligibility for government-sponsored programs. For purposes of proving income, a patient or the patient's legal representative, must provide verification of the patient's or the patient's family's income. Reasonable and necessary information on monetary assets may include account numbers for all monetary assets, but shall not include statements on retirement or deferred compensation plans qualified under the Internal Revenue Code, or non-qualified deferred compensation plans. Hospitals may require waivers or releases from the patient, or the patient's family, authorizing the hospital to obtain account information from the financial or commercial institutions, or other entities that hold or maintain the monetary assets to verify their value.

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(g) Eligibility for charity care and discounted payments may be determined at any time the hospital is in receipt of all the information needed to determine the patient's eligibility under its applicable policies.

(h) In determining a patient's eligibility for financial assistance, a hospital shall assist the patient in determining if he or she is eligible for government-sponsored programs.

§ 1797.311.(a) Each hospital shall post notices regarding the availability of its discount payment policy and charity care policy. These notices shall be posted in visible locations throughout the hospital, including, but not limited to, patient admissions and registration, the billing office, the emergency department and other outpatient settings.

(b) Every posted notice regarding financial assistance policies shall contain brief instructions on how to apply for charity care or a discounted payment. Each notice shall include a contact telephone number that a patient or family member can call to obtain more information.

(c) A hospital shall train appropriate staff members about the hospital's discount payment policy. Training shall be provided to all staff members who directly interact with patients regarding their hospital bills.

(d) Each hospital shall make its charity care and discount payment policies available to appropriate community health and human services agencies and other organizations that assist low-income patients.

§ 1797.312.(a) Each hospital shall have a written policy about when and under whose authority patient debt is advanced for collection, and shall use its best efforts to ensure that patient accounts are processed fairly and consistently.

(b) Each hospital shall establish a written policy defining standards and practices for the collection of debt, and shall obtain a written agreement from any agency that collects hospital receivables that it will adhere to the hospital's standards and scope of practices. In determining the amount of a debt a hospital may seek to recover from patients eligible under its charity care policy or discount payment policy, the hospital may consider only income and monetary assets as limited by subdivision (b) of Section 1797.310.

(c) At time of billing, each hospital shall provide to all low-income and uninsured patients, as the same are defined in policies adopted by the hospital regarding eligibility for charity care and discounted payment, the same information concerning services and charges provided to all other patients who receive care at the hospital.

(d) When sending a bill to a patient, each hospital shall include: (1) a statement that indicates that if the patient meets certain low-income requirements the patient may be eligible for a government-sponsored program or for financial assistance from the hospital; and (2) a statement that provides the patient with the name and telephone number of a hospital employee or office from whom or which the patient may obtain information about the hospital's financial assistance policies for patients and how to apply for such assistance.

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(e) For patients who have a completed application pending for either government-sponsored coverage or for eligibility under the hospital's own charity care or discount payment policies, a hospital shall not knowingly send that patient's bill to a collection agency prior to 120 days from time of initial billing, and without first having made more than one attempt to collect the bill, or while the completed application is being processed by a governmental agency or the hospital.

(f) If a patient qualifies for eligibility under the hospital's charity care or discount payment policy and is attempting in good faith to settle an outstanding bill with the hospital by negotiating a reasonable payment plan or by making regular partial payments of a reasonable amount, the hospital shall not send the unpaid bill to any collection agency if the hospital knows that doing so may negatively impact a patient's credit.

(g) The hospital or collection agency operating on behalf of the hospital shall not, in dealing with patients eligible under the hospital's charity care or discount payment policies, use wage garnishments or liens on primary residences as a means of collecting unpaid hospital bills. This requirement does not preclude hospitals from pursuing reimbursement from third-party liability settlements or tortfeasors or other legally responsible parties.

(h) Any extended payment plans offered by a hospital to assist patients eligible under the hospital's charity care or discount payment policy, or any other policy adopted by the hospital for assisting low-income patients with no or inadequate insurance in settling past due outstanding hospital bills, shall be interest free.

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§ 1797.313(a) Notwithstanding any other provision of law, the amounts paid by parties for services resulting from reduced or waived charges under a hospital's discount payment or charity care policy shall not constitute the hospital's uniform, published, prevailing, or customary charges, its usual fees to the general public, or its charges to non-Medi-Cal purchasers under comparable circumstances, and shall not be used to calculate a hospital's median non-Medicare or Medi-Cal charges, for purposes of any payment limit under the federal Medicare program, the Medi-Cal program or any other federal or state-financed health care program.

(b) Nothing in this Article shall be construed to prohibit a hospital from uniformly imposing charges from its established charge schedule or published rates, nor shall this Article preclude the recognition of a hospital's established charge schedule or published rates for purposes of applying any payment limit, interim payment amount, or other payment calculation based upon a hospital's rates or charges under the Medi-Cal, Medicare, worker's compensation, or other federal, state or local public program of health benefits.

(c) To the extent that any requirement of this Article results in a federal determination that a hospital's established charge schedule or published rates are not the hospital's customary or prevailing charges for services, the requirement in question shall be inoperative. The department shall seek federal guidance regarding modification to the requirement in question. All other requirements in this Article shall remain operative.

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SECTION 10. Preservation of Existing Funding

Section 16950.2 of Article 3 of Chapter 5 of Part 4.7 of Division 9 of the Welfare and Institutions Code is added to read:

§16950.2(a) An amount, equal to the amount appropriated and allocated pursuant to Section 39.1 of Chapter 80 of the Statutes of 2005, twenty-four million eight hundred three thousand dollars ($24,803,000), shall be transferred and allocated pursuant to subdivision (b) from accounts within the Cigarette and Tobacco Products Surtax Fund (commencing with Section 30122 of the Revenue and Taxation Code) as follows:

(1) Twenty million two hundred twenty-seven thousand dollars ($20,227,000) from the Hospital Services Account.

(2) Four million five hundred seventy-six thousand dollars ($4,576,000) from the Physician Services Account.

(b) The funds specified in subdivision (a) shall be allocated proportionately as follows:

(1) Twenty-two million three hundred twenty-four thousand dollars ($22,324,000) shall be administered and allocated for distribution through the California Healthcare for Indigents Program (CHIP), Chapter 5 (commencing with Section 16940) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(2) Two million four hundred seventy-nine thousand dollars ($2,479,000) shall be administered and allocated through the Rural Health Services Program, Chapter 4 (commencing with Section 16930) of Part 4.7 of Division 9 of the Welfare and Institutions Code.

(c) This transfer shall be made on June 30 of the first fiscal year following adoption of this Act, and on June 30 of each fiscal year thereafter. Funds transferred are continuously appropriated without regard to fiscal years for the purposes so stated for each such account.

(d)(1) Funds allocated pursuant to this Section from the Physician Services Account and the Hospital Services Account in the Cigarette and Tobacco Products Surtax Fund shall be used only for reimbursement of physicians for losses incurred in providing uncompensated emergency services in general acute-care hospitals providing basic, comprehensive, or standby emergency services, as defined in Section 16953 of the Welfare and Institutions Code. Funds shall be transferred to the Physician Services Account in the county Emergency Medical Services Fund established pursuant to Sections 16951 and 16952 of the Welfare and Institutions Code, and shall be paid only to physicians who directly provide emergency medical services to patients, based on claims submitted or a subsequent reconciliation of claims. Payments shall be made as provided in Sections 16951 to 16959, inclusive, of the Welfare and Institutions Code, and payments shall be made on an equitable basis, without preference to any particular physician or group of physicians.

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(2) If a county has an EMS Fund Advisory Committee that includes both emergency physicians and emergency department on-call back-up panel physicians, and if the committee unanimously approves, the administrator of the EMS Fund may create a special fee schedule and claims submission criteria for reimbursement for services rendered to uninsured trauma patients, provided that no more than fifteen percent (15%) of the tobacco tax revenues allocated to the county's EMS Fund is distributed through this special fee schedule, that all physicians who render trauma services are entitled to submit claims for reimbursement under this special fee schedule, and that no physician's claim may be reimbursed at greater than fifty percent (50%) of losses under this special fee schedule.

SECTION 11. Amendment

(a) Except as hereafter provided, this Act may only be amended by the electors pursuant to Article II, Section 10(c) of the California Constitution.

(b) Notwithstanding subdivision (a), the Legislature may amend Sections 8 and 9 of this Act to further its purposes by a statute passed in each house by roll-call vote entered in the journal, four-fifths of the membership concurring.

(c) Notwithstanding subdivisions (a) and (b), the Legislature may amend Article 2 (commencing with Section 1797.309) of Chapter 4.5 of Division 2.5 of the Health and Safety Code to further its purposes by a statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring.

(d) Notwithstanding subdivisions (a), (b), and (c), the Legislature may amend Sections 6 and 7 of this Act to further its purposes by a statute passed in each house by roll-call vote entered in the journal, a majority of the membership concurring, except that the Legislature may not amend subdivision (b) of Section 12693.992 of the Insurance Code added by Section 6 of this Act or subdivision (a) or subdivision (c)(1) of Section 1246 of the Health and Safety Code added by Section 7 of this Act. paragraph (1) of

SECTION 12. Statutory References

Unless otherwise stated, all references in this Act to existing statutes are to statutes as they existed on December 31, 2005.

SECTION 13. Severability

If any provision of this Act, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions of this Act are severable.

SECTION 14. Conflicting Measures

(a) This measure is intended to be comprehensive. It is the intent of the People that in the event that this measure and another initiative measure or measures relating to the same

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subject shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

(b) If this measure is approved by voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force of law.

SECTION 15. Conformity with State Constitution

Section 14 is added to Article XIIIB of the Constitution, to read:

SEC. 14(a) "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Tobacco Tax Act of 2006. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Tobacco Tax of 2006 Trust Fund.

(b) The tax created by the Tobacco Tax Act of 2006 and the revenue derived therefrom shall not be considered General Fund revenues for the purposes of Section 8 of Article XVI.

(c) Distribution of moneys in the Tobacco Tax of 2006 Trust Fund or any of the Accounts or Sub-Accounts created therein, shall be made pursuant to the Tobacco Tax Act of 2006 notwithstanding any other provision of this Constitution.

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TEXT OF PROPOSITION 87

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PROP. 87

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This initiative measure is submitted to the people of California in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure ~~amends~~ adds provisions ~~of~~ to the California Constitution ~~and the Education~~ Code; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

, amends, repeals, and adds sections to the Public Resources Code, and adds sections to the Revenue and Taxation

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VERSION 2 Printer: No Pass throughout SA2005RF0138, Amdt #2-S

THE CLEAN ALTERNATIVE ENERGY ACT

SECTION 1. TITLE.

This measure shall be known as the "Clean Alternative Energy Act."

SECTION 2. FINDINGS AND DECLARATIONS.

The people of California find and declare the following:

A. Californians are facing a severe energy crisis. In 2005, the price of oil nearly doubled and the cost of a gallon of gas soared to over $3 in some areas, causing ordinary consumers extreme financial distress while the big oil companies reported record profits.

B. Our demand for energy is rising rapidly while our energy supply shrinks, and we continue to grow more dependent on foreign oil.

C. Our excessive dependence on fossil fuels is imposing economic, environmental, and social costs. High-polluting vehicles like diesel buses and trucks create significant air pollution that is threatening the health of our families and children with lung diseases and asthma. They can and should be replaced by clean alternative fuel vehicles.

D. California is the only major oil-producing state in the country that does not impose a comparable fee on oil produced at its wells. California's oil producers are enjoying windfall profits at the expense of California consumers and taxpayers.

E. An assessment paid by California's big oil companies on their excess profits is a proven way to reclaim some of those revenues without raising prices for consumers. California is the only one of the nation's top five oil-producing states without a comparable assessment on oil producers. These assessments have proven to be impossible for the big oil companies to "pass along" to consumers in the form of higher gas prices at the pump because oil prices are set on the global market without regard to regional or local costs or assessments.

F. Consumers should be protected from any attempt at price gouging by big oil companies if they try to pass along their assessment costs by increasing gas prices at the pump.

G. The proceeds from the assessment on California oil companies' excess profits should be used to reduce the consumption of petroleum, foster the development and use of clean alternative fuels, clean alternative fuel vehicles, and renewable energy technologies, and improve energy efficiency in California.

H. A clean, environmentally-sound energy economy with greatly improved energy efficiency is a vital, pro-business goal. Given that fossil fuel reserves are finite, and that the global appetite for energy is growing, the only question is when – not if – we will

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make our economy significantly more energy efficient and switch to renewable energies and get more work out of less energy. But politicians in Washington have failed to offer visionary leadership for energy independence or to capture the economic rewards of early action in this critical technology sector.

I. The United States' dependence on foreign oil is a serious danger to U.S. national security, hampers U.S. foreign policy, and is a persistent threat to the U.S. economy. Because 60% of the petroleum the U.S. currently uses comes from foreign imports, and because California is the largest consumer of petroleum products, we must do our part to address these national problems.

J. Further delay in beginning the transition to clean, efficient, and renewable energy puts California and the U.S. at risk for economic upheaval, and cedes the opportunity for new energy technological and industrial leadership to other more pro-active countries, thereby perpetuating our dependence on foreign energy sources.

K. The transition to a renewable energy economy creates an opportunity for California to profit economically, socially, and environmentally. Clean alternative energy technologies like solar, wind, and hydrogen, and clean alternative fuel vehicles like hybrids and bio-fueled cars and trucks are available today and can help reduce our dependence on oil and gasoline.

L. California's history of technological innovation and entrepreneurship, international leadership in promoting energy efficiency, abundance of world-leading academic institutions, national leadership in environmental stewardship, and position as one of the United States' largest energy consumers uniquely qualifies us to lead the way into the renewable energy era.

SECTION 3. PURPOSE AND INTENT.

It is the intent of the people of California in enacting this measure to:

A. Invest approximately $4 billion in projects and programs designed to enhance California's energy independence and to reduce our use of petroleum, including funding for: research, facility, and training grants to California's universities; vocational training grants to community colleges; and buydowns, loans, loan guarantees, and credits to accelerate the development and deployment of renewable energy technologies, energy efficiency technologies, clean alternative fuels, and clean alternative fuel vehicles;

B. Provide incentives to ordinary Californians to make clean alternative fuel vehicles and clean alternative fuels as affordable and easy to obtain as gasoline and diesel fuels and vehicles. Incentive programs like this have already succeeded in breaking other countries' oil dependence, and they can easily work in California today;

C. Create new industries, technologies, and jobs focused on renewable energy, energy efficiency, clean alternative fuels, and clean alternative fuel vehicles, expand our State's

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wealth, and ensure that any loan proceeds, royalties, or license fees the State receives as a result of the funding are reinvested in this program;

D. Reduce our dependence on foreign oil by developing renewable sources of energy and clean alternative fuels, increasing their usage here in California, and by improving our energy efficiency;

E. Improve our environment, public health, and quality of life by reducing emissions of carbon dioxide and other global warming gases;

F. Reduce by 25% our use of petroleum transportation fuels in California from the 2005 level of 16 billion gallons annually to begin conserving four billion gallons annually by 2017, and conserve a total of 10 billion gallons over ten years between 2007 and 2017;

G. Invest in energy education in California so that California workers can take advantage of the job opportunities that will open up for those trained in emerging energy systems, technologies, and management methods;

H. Make full use of California's internal resources and its capability for innovation to develop new ways to meet four of the state's important long-term goals: the Renewable Portfolio Standard, Control of Greenhouse Gas Emissions from Motor Vehicles, the Governor's Greenhouse Gas targets, and the petroleum reduction goals set forth in this Act;

I. Impose an assessment on oil extracted from California's oil wells to ensure that California consumers' future energy needs are met without raising gasoline prices for consumers today. By ensuring that oil producers in California finally pay their fair share, we will create a dedicated funding stream of approximately $4 billion to secure California's future energy independence;

J. Ensure that California oil companies fully comply with the excess profits assessment and protect consumers by prohibiting the oil companies, consistent with U.S. Supreme Court precedent, from attempting to gouge consumers by using the assessment as a pretext to raise prices on oil, gasoline, and diesel fuels in California; and

K. Ensure that the revenues from the new assessment on California oil producers are invested wisely in the most promising research and technologies, and require mandatory independent audits and annual progress reports so that the leaders of this project are accountable to the people of California.

SECTION 4. Article XXXVI is ~~hereby~~ added to the California Constitution to read:

Sec. 1. There is hereby established in state government the Clean Alternative Energy Program.

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~~Sec~~. 2. *The Clean Alternative Energy Program shall be administered by the California Energy Alternatives Program Authority, which is established in Division 16 (commencing with Section 26000) of the Public Resources Code, and shall be funded by the California Energy Independence Fund Assessment, which is established in Division 2, Part 21 (commencing with Section 42000) of the Revenue and Taxation Code.*

of Division 2 + ital

Sec ~~Sec~~. 3. *In addition to the powers set forth in Division 16 (commencing with Section 26000) of the Public Resources Code, the California Energy Alternatives Program Authority shall have the power, notwithstanding Article XVI of this Constitution, any other article of this Constitution, or any other provision of law, to use revenues produced by the California Energy Independence Fund Assessment to provide incentives including, but not limited to, grants, loans, loan guarantees, buydowns, and credits to universities, community colleges, research institutions, individuals, companies, associations, partnerships, and corporations pursuant to the Clean Alternative Energy Act or to secure the repayment of any bonds, bond anticipation notes, and other obligations and indebtedness of the authority issued pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code, and any other costs associated with such bonds, that are used to fund such incentives.*

Sec ~~Sec~~. 4. *(a) Revenues produced by the California Energy Independence Fund Assessment shall be deposited in the California Energy Independence Fund, which is hereby created as a special fund in the State Treasury, to be held in trust for the purposes of the Clean Alternative Energy Act. Moneys held in the California Energy Independence Fund are hereby continuously appropriated, without regard to fiscal year, for those purposes alone.*

(b) The California Energy Alternatives Program Authority shall be authorized to expend four billion dollars ($4,000,000,000) from the California Energy Independence Fund for the purposes of the Clean Alternative Energy Act, as provided in subdivision (d) of Section 26045 of the Public Resources Code.

(c) The proceeds of any bonds, bond anticipation notes, and other obligations and indebtedness of the authority issued pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code, the revenues produced by any grants or loans made pursuant to the Clean Alternative Energy Act, and any royalties or license fees generated pursuant to the Clean Alternative Energy Act shall be deposited in the California Energy Independence Fund and are hereby continuously appropriated, without regard to fiscal year, for the purposes of the Clean Alternative Energy Act alone.

(d) The moneys in the California Energy Independence Fund may not be used for any purpose or program other than the purposes or programs authorized by the Clean Alternative Energy Act, and may not be loaned to the state General Fund, or to any other fund of the state, or to any fund of a county, or any other entity, or borrowed by the Legislature, or any other state or local agency, for any purpose other than the purposes authorized by the Clean Alternative Energy Act.

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(e) Notwithstanding any other provision of this Constitution, revenues generated by the California Energy Independence Fund Assessment shall not be deemed to be "revenues" or "taxes" for purposes of computing any State expenditure or appropriation limit that is enacted on or after June 6, 2006, nor shall their expenditure or appropriation be subject to any reduction or limitation imposed pursuant to any provision enacted after that date.

SECTION 5. Section 14 is ~~hereby~~ added to Article XIIIB of the California Constitution to read:

~~Sec~~. *14. (a) "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the California Energy Independence Fund, which is established in subdivision (a) of Section 4 of Article XXXVI. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the California Energy Independence Fund.*

(b) Revenues generated by the California Energy Independence Fund Assessment shall not be considered General Fund revenues for the purposes of Section 8 and Section 8.5 of Article XVI.

SECTION 6. Section 26004 of the Public Resources Code is ~~hereby~~ amended to read:

~~Sec~~. 26004. (a) There is in the state government the ~~California Alternative Energy and Advanced Transportation Financing~~ *California Energy Alternatives Program* Authority. The authority constitutes a public instrumentality and the exercise by the authority of powers conferred by this division *and Article XXXVI of the California Constitution* is the performance of an essential public function.

(b) The authority shall consist of ~~five~~ *nine* members, as follows:

(1) *The Secretary of the California Environmental Protection Agency* ~~The Director of Finance~~.

(2) The Chairperson of the State Energy Resources Conservation and Development Commission.

(3) ~~The President of the Public Utilities Commission.~~ *The Treasurer.*

(4) ~~The Controller.~~ *A Californian who has expertise in economics, energy markets, and energy efficiency technologies, appointed by the Governor.*

(5) ~~The Treasurer, who shall serve as the chairperson of the authority.~~ *A Californian who has expertise, and who has demonstrated leadership, in public health, appointed by the Governor.*

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(6) A Californian who has expertise in finance, start-ups, and venture capital, preferably with experience in enterprises comparable in scale and purpose to those that would be eligible for funding pursuant to the Clean Alternative Energy Act, appointed by the Controller.

(7) A renewable energy or energy efficiency expert from a California university that awards doctoral degrees in the sciences who is either a member of the National Academy of Sciences, the National Academy of Engineering, or a Nobel Prize laureate, appointed by the Speaker of the Assembly.

(8) The dean or a tenured faculty member of a major, nationally recognized California business school that awards post-graduate degrees who has significant experience in as many as possible of new technology ventures, entrepreneurship, consumer marketing, consumer adoption of new trends, and enterprises comparable in scale and purpose to those that would be eligible for funding pursuant to the Clean Alternative Energy Act, appointed by the Senate Rules Committee.

(9) A Californian who has expertise, and who has demonstrated leadership, in consumer advocacy, preferably with substantial experience in consumer marketing and business, appointed by the Attorney General.

(c) The members listed in paragraphs (1) to (35), inclusive, of subdivision (b) may *each designate a deputy who is employed under the member's authority, and notwithstanding Section 7.5 of the Government Code, each such designee may act in his or her place and stead on the board. While serving on the board, the deputy may exercise the same powers that the member could exercise if he or she were personally present*~~each designate a deputy or clerk in his or her agency to act for and represent the member at all meetings of the authority~~.

(d) The first meeting of the authority *after the voters' enactment of the Clean Alternative Energy Act* shall be convened by the Treasurer *within 60 days of the effective date of the Act. At the first meeting, the members of the authority shall elect a chairperson, who shall serve a two-year term. No chairperson shall serve more than two consecutive two-year terms.*

(e) Members of the authority and any entity controlled by a member shall not be eligible to apply for any incentive including, but not limited to, any grant, loan, loan guarantee, credit, or buydown awarded by the authority or any contract made by the authority.

(f) Members of the authority appointed pursuant to paragraphs (4) through (9) of subdivision (b) shall serve four-year terms and shall be eligible to serve a maximum of two terms.

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(g) Service as a member of the authority by a member of the faculty or administration of the University of California shall not, by itself, be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of a member of the authority as a member of the faculty or administration of the University of California and shall not result in automatic vacation of either office. Service as a member of the authority by an employee of an entity that is eligible for funding from the authority shall not be deemed to be inconsistent, incompatible, in conflict with, or inimical to the duties of a member of the authority as an employee of an entity that is eligible for funding from the authority.

SECTION 7. Section 26005 of the Public Resources Code is ~~hereby~~ amended to read:

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~~Sec.~~ 26005. All members of the authority shall serve thereon without compensation as members of the authority, *except for the members appointed pursuant to paragraphs (4) through (9) of subdivision (b) of Section 26004, who shall be entitled to receive a per diem, established by the Department of Personnel Administration, based on comparable per diem paid to members of similar state boards and commissions, for each day actually spent in the discharge of the member's duties. All members of the authority shall be entitled to reasonable and necessary travel and other expenses incurred in the performance of the member's duties.*

SECTION 8. Section 26006 of the Public Resources Code is ~~hereby~~ amended to read:

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~~Sec.~~ 26006. The provisions of this division shall be administered by the authority which shall have and is hereby vested with all powers reasonably necessary to carry out the powers and responsibilities expressly granted or imposed upon it under this division *and under Article XXXVI of the California Constitution.*

SECTION 9. Section 26008 of the Public Resources Code is ~~hereby~~ amended to read:

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~~Sec.~~ 26008. *(a)* The authority *shall appoint a Chief Executive Officer with substantial business experience in the private sector at a senior management level, preferably with experience in new technology, to serve the authority, as soon as reasonably practicable.* ~~may employ an executive director and any other persons as are necessary to enable it properly to perform the duties imposed upon it by this division.~~ The *Chief Executive Officer* ~~executive director~~ shall serve at the pleasure of the authority ~~and shall receive such compensation as shall be fixed by the authority. The authority may delegate to the executive director the power to enter contracts on behalf of the authority.~~ *The Chief Executive Officer's primary responsibilities shall be to hire, direct, and manage the authority's staff; to develop the authority's two-year and ten-year strategic plans pursuant to Section 26045; to develop and recommend standards and procedures, including a competitive selection process, to govern the authority's consideration and award of incentives including, but not limited to, grants, loans, loan*

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guarantees, credits, and buydowns pursuant to Section 26045; to develop recommendations for the award of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns pursuant to Section 26045; to develop and recommend procedures and standards to monitor recipients of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns awarded by the authority pursuant to Section 26045; and to execute and manage contracts on behalf of the authority.

(b) From time to time, the authority shall determine the total number of authorized employees for the authority.

(1) Notwithstanding Government Code Sections 19816, 19825, 19826, 19829, and 19832, the authority shall fix and approve the compensation of the Chief Executive Officer and other staff of the authority.

(2) When fixing and approving the compensation of the Chief Executive Officer and other staff of the authority pursuant to paragraph (1), the authority shall be guided by the principles contained in Government Code Sections 19826 and 19829, consistent with the authority's responsibility to recruit and retain highly qualified and effective employees.

SECTION 10. Section 26010 of the Public Resources Code is ~~hereby~~ amended to read:

~~Sec.~~ 26010. (a) The Attorney General shall be the legal counsel for the authority, but with the approval of the Attorney General, the authority may employ such legal counsel as in its judgment is necessary or advisable to enable it to carry out the duties and functions imposed upon it by this division, including the employment of such bond counsel as may be deemed advisable in connection with the issuance and sale of bonds.

(b) The *Treasurer* ~~Director of Finance~~ shall be the treasurer of the authority.

SECTION 11. Section 26020 of the Public Resources Code is ~~hereby~~ amended to read:

~~Sec.~~ 26020. ~~(a)~~ The authority may incur indebtedness and issue and renew negotiable bonds, notes, debentures, or other securities of any kind or class *to carry out its corporate purposes*. All indebtedness, however evidenced, shall be payable solely from revenues of the authority, *including the proceeds from the assessment imposed pursuant to Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code* and the proceeds of its negotiable bonds, notes, debentures, or other securities~~, and shall not exceed the sum of one billion dollars ($1,000,000,000) of total debt outstanding~~.

~~(b) As used in this section, "total debt outstanding" does not include either of the following:~~

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~~(1) A bond for which provisions have been made for prepayment through irrevocable escrow or other means, so that the bond is not considered outstanding under its authorizing document.~~

~~(2) Indebtedness that is incurred to refund existing debts, except to the extent that the indebtedness exceeds the amount of those debts.~~

SECTION 12. Section 26021 of the Public Resources Code is ~~hereby deleted~~ repealed.

~~Sec. 26021. The Legislature may, by statute, authorize the authority to issue bonds, as defined in Section 26022, in excess of the amount provided in Section 26020.~~

SECTION 13. Section 26022 of the Public Resources Code is ~~hereby~~ amended to read:

~~Sec.~~ 26022. (a) The authority is authorized from time to time to issue its negotiable bonds, notes, debentures, or other securities (hereinafter collectively called "bonds") for any of its purposes. The bonds may be authorized, without limiting the generality of the foregoing, to finance a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties *and to finance expenditures authorized by the Clean Alternative Energy Act as set forth in Chapter 4 (commencing with Section 26043) of this division.* In anticipation of the sale of bonds as authorized by Section 26020~~, or as may be authorized pursuant to Section 26021~~, the authority may issue negotiable bond anticipation notes and may renew the notes from time to time. The bond anticipation notes may be paid from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. Notes and agreements relating to the notes and bond anticipation notes, hereinafter collectively called notes, and the resolution or resolutions authorizing the notes may contain any provisions, conditions or limitations which a bond, agreement relating to the bond, and bond resolution of the authority may contain. However, a note or renewal of the note shall mature at a time not exceeding two years from the date of issue of the original note.

(b) Except as may otherwise be expressly provided by the authority *and except as more particularly provided in subdivision (e)*, every issue of its bonds, notes, or other obligations shall be general obligations of the authority payable from any revenues or moneys of the authority available for these purposes and not otherwise pledged, subject only to any agreements with the holders of particular bonds, notes, or other obligations pledging any particular revenues or moneys and subject to any agreements with any participating party. Notwithstanding that the bonds, notes, or other obligations may be payable from a special fund, they are for all purposes negotiable instruments, subject only to the provisions of the bonds, notes, or other obligations for registration.

(c) ~~Subject to the limitations in Sections 26020 and 26021, the~~ Bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds

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of both types. The bonds shall be authorized by resolution of the authority and shall bear the date or dates, mature at the time or times, not exceeding 50 years from their respective dates, bear interest at the rate or rates, be payable at the time or times, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in a manner, be payable in lawful money of the United States of America at a place or places, and be subject to terms of redemption, as the resolution or resolutions may provide, *provided, however, that bonds issued for purposes of the Clean Alternative Energy Act shall have a maturity of not more than 25 years.* The bonds or notes shall be sold by the Treasurer within 60 days of receipt of a certified copy of the authority's resolution authorizing the sale of the bonds. However, the authority, at its discretion, may adopt a resolution extending the 60-day period. The sales may be a public or private sale, and for the price or prices and on the terms and conditions, as the authority shall determine ~~after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of the bonds or notes~~. Pending preparation of the definitive bonds, the Treasurer may issue interim receipts, certificates, or temporary bonds which shall be exchanged for the definitive bonds. The Treasurer may sell any bonds, notes, or other evidence of indebtedness at a price below their par value. ~~However, the discount on any security so sold shall not exceed 6 percent of the par value.~~

(d) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to all of the following:

(1) Pledging the full faith and credit of the authority or pledging all or any part of the revenues of any project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, or other moneys of the authority, *including moneys deposited in the California Energy Independence Fund created by Article XXXVI of the Constitution,* to secure the payment of the bonds or of any particular issue of bonds, subject to the agreements with bondholders as may then exist.

(2) The rentals, fees, purchase payments, loan repayments, and other charges to be charged, and the amounts to be raised in each year by the charges, and the use and disposition of the revenues.

(3) The setting aside of reserves or sinking funds, and the regulation and disposition of the reserves or sinking funds.

(4) Limitations on the right of the authority or its agent to restrict and regulate the use of the project or projects to be financed out of the proceeds of the bonds or any particular issue of bonds.

(5) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied and pledging those proceeds to secure the payment of the bonds or any issue of the bonds.

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(6) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds.

(7) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which that consent may be given.

(8) Limitations on expenditures for operating, administrative, or other expenses of the authority.

(9) Defining the acts or omissions to act which constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of the holders in the event of a default.

(10) The mortgaging of any project and the site of the project for the purpose of securing the bondholders.

(11) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

(12) Procedures for the selection of projects to be financed with the proceeds of the bonds authorized by the resolution, if the bonds are to be sold in advance of the designation of the projects and participating parties to receive the financing.

(e) Notwithstanding any other provision of this division, the authority may pledge all moneys which are deposited in the Debt Service Account of the California Energy Independence Fund, which is established by Article XXXVI of the Constitution, to the payment of the principal of premium, if any, or interest on any bonds, bond anticipation notes or other obligations of the authority used to finance the Clean Alternative Energy Act, together with payment of all ancillary obligations, as that term is defined in Section 26048, or other costs of issuing or carrying such bonds. The authority shall determine from time to time and notify the Board of Equalization in writing the amounts which must be deposited each month, or during the course of each fiscal year, in the Debt Service Account to provide for all the aforementioned payments and costs, and any coverage factors which are required by the bond documents. The lien of the pledge of the amounts in the Debt Service Account shall vest automatically upon the execution and delivery of the resolution, trust agreement, or other agreement relating to the bonds, bond anticipation notes, other obligations, or ancillary agreements, without requirement of any filing or notice. If moneys are deposited in the Debt Service Account which exceed the amounts necessary to pay current obligations for repayment of bonds, other obligations and ancillary obligations, the authority shall apply such excess funds to the early retirement of such bonds to the maximum extent fiscally prudent.

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(ef) Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

(fg) The authority shall have power out of any funds available for these purposes to purchase its bonds or notes. The authority may hold, pledge, cancel, or resell those bonds, subject to and in accordance with agreements with bondholders.

SECTION 14. Section 26024 of the Public Resources Code is ~~hereby~~ amended to read:

~~Sec.~~ 26024. Bonds issued under the provisions of this division shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof, other than the authority, or a pledge of the faith and credit of the state or of any such political subdivision, other than the authority, but shall be payable solely from the funds herein provided therefor. All such bonds shall contain on the face thereof a statement to the following effect:

"Neither the faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this bond."

Except as set forth in sections 26022 and 26049, ~~T~~the issuance of bonds under the provisions of this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing contained in this section shall prevent nor be construed to prevent the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

SECTION 15. Section 26029.4 of the Public Resources Code is ~~hereby~~ amended to read:

~~Sec.~~ 26029.4. Subject to Section 26029.6, the existence of the authority may be terminated at any time by the Legislature *no sooner than January 1, 2027 or after the assets of the authority have been fully expended, whichever is later.* Upon dissolution of the authority, the title to all properties owned by it shall, subject to the interests of any participating parties therein, vest in and become the property of the State of California and shall not inure to the benefit of any private party. *Notwithstanding the foregoing, so long as any bonds or other obligations secured by the assessment imposed by Division 2, Part 21 (commencing with Section 42000) of the Revenue and Taxation Code remain outstanding, neither the Legislature nor the people may reduce or eliminate the assessment, and this pledge may be included in the proceedings of any such bonds as a covenant with the holders of such bonds.*

SECTION 16. Section 26033 of the Public Resources Code is ~~hereby~~ amended to read:

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~~Sec.~~ 26033. All moneys received pursuant to the provisions of this division, whether as proceeds from the sale of bonds, notes, or other evidences of indebtedness or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this division. Any bank or trust company with which such moneys shall be deposited shall act as trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as the resolution authorizing the bonds of any issue or the trust agreements securing such bonds may provide. *The proceeds from the assessment imposed pursuant to Part 21 (commencing with Section 42000) of Division 2 of the Revenue and Taxation Code, the proceeds from the sale of bonds, notes, or other evidences of indebtedness secured by the assessment, and any revenues generated by the Clean Alternative Energy Act shall be deposited in the California Energy Independence Fund, as established by Section 4 of Article XXXVI of the California Constitution, and shall be used solely for the purposes of the Clean Alternative Energy Act. Notwithstanding any other provision of law, proceeds of bonds issued pursuant to this division, including those deposited in the Clean Energy Independence Fund, may be held by a trustee outside the State Treasury system as provided by this chapter.*

SECTION 17. Chapter 4 is ~~hereby~~ added to Division 16 of the Public Resources Code, commencing with Section 26043, to read:

CHAPTER 4. CLEAN ALTERNATIVE ENERGY PROGRAM

ARTICLE 1. GENERAL PROVISIONS

~~Sec.~~ 26043. This Chapter implements the Clean Alternative Energy Act, including Article XXXVI of the California Constitution. As used throughout this Chapter, "Act" refers to the Clean Alternative Energy Act.

~~Sec.~~ 26044. This Chapter shall govern the expenditure of all revenues deposited in the California Energy Independence Fund.

~~Sec.~~ 26045. In addition to its other powers and duties, the authority shall perform the following functions:

(a) Within nine months of the effective date of the Act, and every two years thereafter, adopt or modify two-year and ten-year strategic plans to guide the authority's funding decisions in the areas of petroleum use reduction, academic research and vocational training, technology innovation, and public education in order to meet the goals of this Act within ~~ten~~ years of the adoption of the authority's initial strategic plans.

(b) Adopt procedures and standards, including a competitive selection process, to govern the authority's consideration and award of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns. The incentives approved by the authority shall not be deemed to be contracts subject to the Public Contract Code.

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(c) Award incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns, through a competitive selection process designed to achieve the objectives of this Act within ten years of the date of adoption of the authority's initial strategic plans. For loans and loan guarantees, to the extent permitted under California law, the authority shall use all prudent means to maximize the impact of the loans and loan guarantees by recycling funds or remarketing loans or loan guarantees.

(d) Expend four billion dollars ($4,000,000,000) within ten years of the date of adoption of the authority's initial strategic plans to achieve the objectives of the Act from either the proceeds of bonds or other obligations of the authority or from the California Energy Independence Fund Assessment deposited in the accounts established pursuant to subdivision (b) of Section 26049. This amount shall not include the costs of repaying indebtedness associated with the Clean Alternative Energy Act, including principal, interest, ancillary obligations, and other costs of any bonds issued pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code. The authority shall expend any additional amounts remaining in the California Energy Independence Fund in furtherance of the purposes of this Act.

(e) Adopt procedures and standards to monitor recipients of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns, awarded by the authority.

(f) Adopt objective standards to measure the authority's success in meeting the goals of this Act.

(g) Ensure the completion of an annual independent financial audit of the authority's operations and issue public reports regarding the authority's activities.

(h) Notwithstanding Section 11005 of the Government Code, accept additional revenue and real and personal property including, but not limited to, gifts, bequests, royalties, interest, and appropriations to supplement the authority's funding. Notwithstanding Section 26049, donors may earmark gifts for a particular purpose authorized by this Act.

(i) Appoint one advisory review committee of no more than nine members for each account established pursuant to subdivision (b) of Section 26049 to assist the authority in its review of applications for funding, if the authority determines that it is necessary to obtain expertise in market dynamics or technology that is not available within the authority. Members of review committees shall be entitled to receive a per diem, established by the Department of Personnel Administration, based on comparable per diem paid to members of similar state review committees, for each day actually spent in the discharge of the member's duties, plus reasonable and necessary travel and other expenses incurred in the performance of the member's duties. Members of the advisory review committees and any entity controlled by a member shall not be eligible to apply for any incentive including, but not limited to, any grant, loan, loan guarantee, credit, or buydown awarded by the authority or any contract made by the authority.

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(j) Apply for federal matching funds where possible.

(k) Adopt regulations pursuant to the Administrative Procedure Act (Government Code, Title 2, Division 3, Part 1, Chapter 4.5, Sections 11340 et seq.) as necessary to implement this Act. In order to expedite the commencement of the program mandated by this Act, however, the authority may adopt interim regulations, including standards, without complying with the procedures set forth in the Administrative Procedure Act. The interim regulations shall remain in effect for 270 days unless earlier superseded by regulations adopted pursuant to the Administrative Procedure Act.

Sec. 26046. The authority shall take all actions authorized by this Chapter by a majority vote of a quorum of the authority, except as required by subdivision (f) of Section 26050 and subdivision (c) of Section 26056.

Sec. 26047. Government Code Section 1090 shall not apply to any incentive including, but not limited to, a grant, loan, loan guarantee, credit, or buydown, or contract awarded by the authority pursuant to this Chapter except where both of the following conditions are met:

(a) The member has a financial interest in an incentive or contract.

(b) The member fails to recuse himself or herself from making, participating in making, or in any way attempting to use his or her official position to influence a decision on the incentive or contract.

ARTICLE 2. DEFINITIONS

Sec. 26048. As used in this Act, the following terms shall have the following meanings:

(a) "Ancillary obligation" means an obligation of the authority entered into in connection with any bonds issued under this division, including the following:

(1) A credit enhancement or liquidity agreement, including any credit enhancement or liquidity agreement in the form of bond insurance, letter of credit, standby bond purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement.

(2) A remarketing agreement.

(3) An auction agent agreement.

(4) A broker-dealer agreement or other agreement relating to the marketing of the bonds.

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(5) An interest rate or other type of swap or hedging contract.

(6) An investment agreement, forward purchase agreement, or similar structured investment contract.

(b) "Buydown" means a payment to cover up to ~~one hundred~~ percent (100%) of the difference in the purchase price between a clean alternative fuel vehicle and a comparable dedicated gasoline or diesel vehicle.

(c) "Clean alternative fuels" means fuels for use in transportation including, but not limited to, hydrogen, methanol, natural gas, ethanol blends consisting of at least ~~eighty-five~~ percent (85%) ethanol, and biodiesel blends consisting of at least ~~twenty~~ percent (20%) biodiesel that, when used in vehicles, have been demonstrated, to the satisfaction of the authority, to have the ability to meet applicable vehicular emission standards and that, relative to petroleum use, produce no net material increase in air pollution, water pollution, or any other substances that are known to damage human health, and reduce global warming pollution considering the full fuel-cycle assessment. Any fuel not specifically mentioned above must significantly decrease global warming pollution emissions compared to petroleum, considering the full fuel-cycle assessment, in order to be considered a clean alternative fuel.

(d) "Clean alternative fuel infrastructure" means facilities and equipment dedicated to clean alternative fuel production, storage, and distribution.

(e) "Clean alternative fuel vehicles" means light-, medium-, and heavy-duty conversions, conversion systems, and vehicles powered by clean alternative fuels, flexible-fuel vehicles, plug-in hybrids powered primarily by electricity, and battery-powered electric vehicles, all of which have been demonstrated, to the satisfaction of the authority, to have the ability to meet applicable vehicular emission standards and that, relative to petroleum use, produce no net material increase in air pollution (including global warming pollution), water pollution, or any other substances that are known to damage human health and which meet all applicable safety certifications and standards necessary to operate in California.

(f) "Energy efficiency technologies" means methods of obtaining more or better services from less energy, compared with typical current practices in California.

(g) "Full fuel-cycle assessment" means evaluating and comparing the full environmental and health impacts of each step in the life cycle of a fuel, including, but not limited to, all of the following:

(1) Feedstock extraction, transport, and storage.

(2) Fuel production, distribution, transport, and storage.

(3) Vehicle operation, including refueling, combustion or conversion, and evaporation.

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(4) Electricity generation, distribution, and storage, when used in vehicles for transportation.

(h) "Petroleum reduction" means methods of reducing total projected petroleum use in California either through increased energy efficiency, clean alternative fuels, or a combination of both.

(i) "Renewable energy technologies" means energy production techniques, products or systems, distribution techniques, products or systems, and transportation machinery, products or systems, all of which utilize solely energy resources that are naturally regenerated over a short time scale and delivered directly from the sun (such as thermal, photochemical, and photoelectric), indirectly from the sun (such as wind, hydropower facilities of 30MW or less that are consistent with Section 25743(b)(3)(D) of the Public Resources Code, and photosynthetic energy stored in biomass consistent with Section 25743(d) and (f) of the Public Resources Code), or from other natural movements or mechanisms of the environment, such as geothermal and tidal energy. Renewable energy technologies do not include technologies that use energy resources derived from fossil fuels, waste products from fossil sources, or waste products from inorganic sources.

ARTICLE 3. ALLOCATION OF FUNDS

~~Sec.~~ 26049. (a) From the revenues generated by the California Energy Independence Fund Assessment, there shall first be deposited in each calendar month into the Debt Service Account of the California Energy Independence Assessment Fund, which account is hereby created, moneys in such an amount as the authority determines and notifies the Board of Equalization in writing is necessary and appropriate to pay the debt service on any outstanding bonds, bond anticipation notes, or other obligations and indebtedness of the authority, together with any ancillary obligations, any coverage factors required by the bond documents, any costs associated with the issuance or carrying of any bonds, bond anticipation notes, or other obligations and indebtedness of the authority, and any other costs determined by the authority to be necessary to carry out the financing authorized by this chapter. Notwithstanding any other provision of law, moneys in the Debt Service Account are continuously appropriated, without regard to fiscal year, to the authority for the repayment of bonds, other obligations or indebtedness or ancillary obligations or other costs of the authority relating to outstanding bonds and may be held by a trustee as authorized by Section 26023.

(b) After funds have been deposited in the Debt Service Account pursuant to subdivision (a) in any month, all funds deposited in the California Energy Independence Fund for that month, except as otherwise provided by this Act, shall be allocated as follows:

(1) Fifty-seven percent and one-half (57.5%) to the Gasoline and Diesel Use Reduction Account, which is hereby created.

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(2) Twenty-six and three-quarters percent (26.75%) to the Research and Innovation Acceleration Account, which is hereby created.

(3) Nine and three-quarters percent (9.75%) to the Commercialization Acceleration Account, which is hereby created.

(4) Two and one-half percent (2.5%) to the Vocational Training Account, which is hereby created.

(5) Three and one-half percent (3.5%) to the Public Education and Administration Account, which is hereby created.

(c) Any funds allocated to the accounts established by paragraphs (1) through (5) of subdivision (b) that are not encumbered or expended in any fiscal year shall remain in the same account for the next fiscal year, except as provided in subdivision (d) of Section 26058. Once all expenditures authorized by this Act have been made from the accounts established by paragraphs (1) through (5) of subdivision (b), all proceeds from the California Energy Independence Fund Assessment shall be deposited in the Debt Service Account established by subdivision (a) until all obligations secured or payable from such account have been paid or payment has been provided for.

(d) Funds deposited in the accounts of the California Energy Independence Fund created in subdivision (b) shall be used to supplement, and not to supplant, existing state funding for research, vocational training, and technological development and deployment involving petroleum reduction, energy efficiency, and renewable energy. To maximize the use of available funds, the authority shall coordinate its expenditure of funds in the California Energy Independence Fund with other state agencies to avoid duplication and to ensure that the funds are expended efficiently and efficaciously.

Sec. 26050. Based on the standards set forth in Section 26056, the authority may use the funds in the Gasoline and Diesel Use Reduction Account for the following categories of expenditures, based on the relative merit in petroleum reduction of transportation-related applications to the authority for funding from this account:

(a) Market-based incentives including, but not limited to, loans, loan guarantees, credits, and buydowns to fleets and individuals for the purchase of clean alternative fuel vehicles sold in California. For buydowns to state and local government agency fleets, the authority shall give preference to school bus, emergency services vehicle, waste disposal truck, and mass transit bus fleets. Other than these preference categories, buydowns will be market-based and subject to the authority determining that the buydown will significantly assist the technology to achieve unsubsidized market competitiveness. Demonstration projects are discouraged.

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(b) Production incentives including, but not limited to, loans, loan guarantees, and credits for clean alternative fuel production in California, excluding the production of electricity, except clean fuel cell based electricity production.

(c) Incentives including, but not limited to, loans, loan guarantees, credits, and grants for the construction of publicly accessible clean alternative fuel refueling stations, including refueling stations that sell ethanol blends consisting of at least ~~eighty-five~~ 85 percent (85%) ethanol ("E-85") sufficient in number to match the existing supply of E-85 vehicles in California based on the ratio of diesel vehicles to diesel fuel stations, and electric vehicle chargers using similar criteria. The authority should consider issuing suitable requests for proposals for refueling stations as soon as practicable.

(d) Incentives including, but not limited to, loans, loan guarantees, and grants for the installation of publicly accessible clean alternative fuel infrastructure.

(e) Grants and loans to private enterprises for research involving clean alternative fuels and clean alternative fuel vehicles in California.

(f) Other expenditures which the authority determines, by a vote of seven or more members of the authority, represent urgent or extraordinary opportunities involving vehicle or fuel technologies that will advance the goal of reducing the use of petroleum transportation fuels in California from 2005 levels by ten billion (10,000,000,000) gallons over ten years.

~~Sec.~~ 26051. Based on the standards set forth in Section 26057, the authority shall use the funds in the Research and Innovation Acceleration Account to make grants to California universities for facilities, post-baccalaureate student research training grants, and research, performed and located wholly on the contiguous campus of the university, to improve the economic viability and accelerate the commercialization of renewable energy technologies, such as solar, geothermal, wind, and wave technologies, and energy efficiency technologies in buildings, equipment, electricity generation, and vehicles.

~~Sec.~~ 26052. Based on the standards set forth in Section 26058, the authority shall use the funds in the Commercialization Acceleration Account to provide incentives including, but not limited to, loans, loan guarantees, and grants to fund the one-time or start-up costs of introducing petroleum reduction and renewable energy technologies, energy efficiency technologies, clean alternative fuels, and clean alternative fuel vehicles including, but not limited to, the certification of products, vehicles, and distribution systems, and for other costs that will accelerate the production and distribution of commercially viable products and technologies to the market and that, preferably, will promote California-based job creation, employment, and economic development.

~~Sec.~~ 26053. Based on the standards in Section 26059, the authority shall use the funds in the Vocational Training Account to:

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(a) Make grants through the Office of the Chancellor of Community Colleges to California community colleges for staff development and facilities to train students to work with renewable energy technologies, energy efficiency technologies, and clean alternative fuels, in buildings, equipment, electricity generation, and vehicles.

(b) Make grants through the Office of the Chancellor of Community Colleges to California community colleges for tuition assistance for low-income students and former fossil fuel energy workers and certified vehicle mechanics to obtain training to work with renewable energy technologies, such as solar, geothermal, wind, and wave technologies, clean alternative fuels, and energy efficiency technologies, in buildings, equipment, electricity generation, and vehicles.

~~Sec.~~ *26054. Based on the standards in Section 26060, the authority shall use the funds in the Public Education and Administration Account to:*

(a) Educate the California public regarding the importance of energy efficiency technologies, renewable energy technologies, and full fuel-cycle petroleum reduction.

(b) Administer the authority.

(c) Monitor the implementation of the California Energy Independence Fund Assessment and refer any evidence that oil producers are attempting to gouge consumers by passing the assessment on to consumers in the form of higher prices for oil, gasoline, or diesel fuel to the Board of Equalization for investigation.

ARTICLE 4. STANDARDS initial caps. and lower case

~~Sec.~~ *26055. The authority shall establish the following standards:*

(a) Intellectual Property Rights. The authority shall establish standards requiring that all research grants made pursuant to this Act shall be subject to intellectual property agreements that balance the opportunity of the State of California to benefit from the patents, royalties, and licenses that result from the research with the need to assure that such research is not unreasonably hindered by those intellectual property agreements.

(b) Oversight of Awards. The authority shall establish standards for the oversight of all incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns made under this Act to ensure compliance with all applicable terms and requirements. The standards shall include periodic reporting, including financial and performance audits, by all recipients of incentives, excluding individuals who receive buydowns, and shall permit the authority to discontinue funding or to take other action to ensure the purposes of this Act are being met.

~~Sec.~~ *26056. Standards for Gasoline and Diesel Use Reduction Account Expenditures.*

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(a) The authority shall make expenditures pursuant to Section 26050 consistent with the goal of reducing the rate of petroleum consumption in California by ~~twenty five~~ 25 percent (25%) within ~~ten~~ 10 years of the date of the authority's adoption of an initial strategic plan pursuant to this Section, as compared with California's current sixteen billion (16,000,000,000) gallon annual rate of consumption, or roughly four billion (4,000,000,000) gallons of petroleum transportation fuels per year by 2017, and causing permanent and long-term reductions in petroleum consumption in California. The total reduction goal shall be ten billion (10,000,000,000) gallons of petroleum transportation fuels over ~~ten~~ 10 years. Prior to making any expenditure pursuant to Section 26050, the authority shall adopt a strategic plan pursuant to subdivision (a) of Section 26045, as follows:

(1) Within nine months of the effective date of this Act, the authority, in consultation with the California Air Resources Board, the California Energy Commission, and the Public Utilities Commission, shall adopt an Integrated Resource Plan for petroleum reduction in California. The Integrated Resource Plan shall be based on the best estimates of the potential for unsubsidized market acceptance of technologies, products, or services within ~~ten~~ 10 years of the date of the adoption of the initial Integrated Resource Plan.

(2) The Integrated Resource Plan shall outline a strategy for the allocation of funds to programs with the highest return opportunities, using the financing powers provided to the authority by this division. The Integrated Resource Plan shall maximize the petroleum use reduction while considering the greenhouse gas reduction benefits of clean alternative fuels and clean alternative fuel vehicles. The Integrated Resource Plan shall also evaluate the expenditure of funds for clean alternative fuel vehicles and shall consider allocating funds necessary to balance the deployment of clean alternative fuel vehicles with accessibility to clean alternative fuels.

(3) The Integrated Resource Plan shall be developed with input from interested parties at scheduled public hearings of the authority under the leadership of the Chief Executive Officer of the authority. The authority shall update the plan every two years and shall amend the plan to ensure that it remains consistent with California Air Resources Board regulations and consistent with the priorities and goals of this Act.

(4) The Integrated Resource Plan shall contain an assessment of the potential of expenditures to meet or exceed the goal of reducing petroleum consumption by ten billion (10,000,000,000) gallons over ~~ten~~ 10 years. Expenditures shall only be made for items consistent with meeting or exceeding this goal. Expenditures shall also be consistent with, and shall receive priority according to their potential to meet or exceed, the emissions targets and goals set forth in Executive Order S-3-05, as published, and the emissions targets and goals set forth in Title 13 of the California Code of Regulations, Sections 1900, 1961 and 1961.1, in effect as of December 1, 2005. If these emissions targets and goals are replaced by more stringent emissions targets and goals prior to dissolution of the authority, the more stringent emissions targets and goals shall be used

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to establish priority for all subsequent expenditures under Section 26050. The full fuel-cycle assessment should be applied to all fuels, including electricity as a transportation fuel. Different methods of producing a specific fuel may have different greenhouse gas emission reductions, and the various methods should be duly considered in evaluating the full fuel-cycle for that fuel. In the case of two vehicles with equivalent full fuel-cycle greenhouse gas emissions, priority shall be given to that which involves the lowest cost to the account.

(5) All expenditures made by the authority under this section shall be consistent with the strategy outlined in the Integrated Resource Plan.

(b) All expenditures on clean alternative fuel infrastructure and electric vehicle chargers shall be restricted to those that support clean alternative fuel vehicles that are available for sale and are producible in substantial volumes.

(c) Expenditures for buydowns shall be limited to ~~twenty-five~~ 25 percent (25%) of the total amount deposited in the Gasoline and Diesel Use Reduction Account, unless the authority determines, by a two-thirds vote, that additional expenditures are warranted in order to most cost-effectively achieve the goals of this Act.

(d) All expenditures made pursuant to Section 26050 shall be based upon a competitive selection process, established pursuant to subdivision (b) of Section 26045. Pursuant to the competitive selection process, the authority shall, at a minimum:

(1) Ensure that the expenditure does not supplant existing state funding for the reduction of petroleum consumption in California.

(2) Evaluate the quality of the proposal for funding, including the availability of private matching funds, and the potential for achieving significant results, including the level of petroleum reduction within the state that is expected to be achieved as a result of the expenditure. Proposals with significant business validation and leverage from private equity funding or subordinate debt funding from private sources will be prioritized and given preference to establish the market viability of the proposals.

(3) Evaluate the unit cost of petroleum reduction of the proposal and the potential of the proposal to achieve unsubsidized market competitiveness and pervasive acceptance, adjusted for the risk and time value of money.

(4) Evaluate the probability that the proposal will result in a sustained, unsubsidized market-competitive technology or technologies that can achieve substantial consumer or business acceptance beyond the subsidy or incentive period.

(5) Ensure that the expenditure is consistent with the two-year and ten-year strategic plan adopted by the authority.

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~~Sec~~ 26057. Standards for Research and Innovation Acceleration Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26051 consistent with the goal of improving the economic viability, and accelerating the commercialization, of renewable energy technologies, such as solar, geothermal, wind, and wave technologies, and energy efficiency technologies in buildings, equipment, electricity generation, and vehicles. Prior to making any expenditures pursuant to Section 26051, the authority shall adopt a strategic plan pursuant to subdivision (a) of Section 26045.

(b) All expenditures made pursuant to Section 26051 shall be based upon a competitive selection process, established pursuant to subdivision (b) of Section 26045. Pursuant to the competitive selection process, the authority shall, at a minimum:

(1) Ensure that the expenditure is for research in renewable energy technologies or energy efficiency technologies.

(2) Ensure that the expenditure does not supplant existing state funding for research in renewable energy technologies or energy efficiency technologies and that the authority coordinates its expenditures with other state agencies, including the Public Interest Energy Research, Demonstration, and Development Program, established by Chapter 7.1 (commencing with Section 25620) of Division 15 of the Public Resources Code, to maximize the effectiveness of the expenditures and to avoid duplication of effort.

(3) Evaluate the quality of the research proposal, the potential for achieving significant results, including consideration of how the expenditure will aid or result in the commercialization, or significant and permanent deployment, of renewable energy technologies or energy efficiency technologies in California, and the time frame for achieving that goal.

(4) Give funding priority to research proposals that utilize more abundant renewable energy resources and that offer the greatest potential for technological breakthroughs. Priority shall additionally be given to research proposals that offer the greatest potential to meet or exceed the goals set forth in: (a) Executive Order S-3-05; (b) Title 13 of the California Code of Regulations, Sections 1900, 1961 and 1961.1, in effect as of December 1, 2005; or (c) Article 16 (commencing with Section 399.11) of Chapter 2.3 Part 1 Division 1 of the Public Utilities Code, in effect as of December 1, 2005. Research proposals that offer the greatest potential to meet or exceed the goals set forth in (a) through (c), inclusive, shall receive the highest priority for funding, followed by those research proposals that offer the greatest potential to meet or exceed the targets and goals set forth in two of (a) through (c), followed by those proposals that offer the greatest potential to meet or exceed the targets and goals set forth in one of (a) through (c).

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(5) Ensure that all funds to support buildings and permanent facilities pursuant to Section 26051 are committed during the first two years of the program, and that such expenditures, in the aggregate, do not exceed one hundred million dollars ($100,000,000). The authority shall require all recipients of funding for facilities to pay all workers employed on the construction or modification of the facility the general prevailing rate of per diem wages for work of a similar character in the locality in which work on the facility is performed and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.

(6) Ensure that the expenditure is consistent with the two-year and ten-year strategic plan adopted by the authority.

Sec. 26058. Standards for Commercialization Acceleration Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26052 consistent with the goal of accelerating the commercialization of economically viable, innovative renewable energy technologies, energy efficiency technologies, clean alternative fuels, and clean alternative fuel vehicles in California within 10 years of the effective date of this Act, by providing funding for the one-time or start-up costs of introducing renewable energy technologies, energy efficiency technologies, clean alternative fuels, and clean alternative fuel vehicles including, but not limited to, the certification of products, vehicles, and distribution systems, and for other costs that will accelerate the production and distribution of commercially viable products and technologies to the market. Prior to making any expenditures pursuant to Section 26052, the authority shall adopt a strategic plan pursuant to subdivision (a) of Section 26045.

(b) All expenditures made pursuant to Section 26052 shall be based upon a competitive selection process, established pursuant to subdivision (b) of Section 26045. Pursuant to the competitive selection process, the authority shall, at a minimum:

(1) Ensure that the expenditure will advance the goal of commercializing economically viable renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles in California.

(2) Evaluate the potential that the expenditure will achieve significant results, including how the expenditure will aid or result in bringing commercially viable renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles to the market in California, within a reasonable time frame from the date of the expenditure.

(3) Establish that it is reasonably likely that a significant share of the finished technology or product for which the funds are allocated will be available to, or will be deployed in, California or that a significant share of all components used in the finished technology or product will be manufactured in California.

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(4) Evaluate the cost, adjusted for time value, of energy developed or saved by the proposal relative to its ability to advance the objectives of the Commercialization Acceleration Account.

(5) Evaluate the probability that the proposal will result in a sustained, unsubsidized market-competitive technology or technologies that can achieve substantial consumer or business acceptance.

(6) Ensure that the expenditure is consistent with the two-year and ten-year strategic plan adopted by the authority.

(c) All expenditures from the Commercialization Acceleration Account require the recipient of the expenditure to provide matching funds equal to at least ~~fifty~~ percent (50%) of the expenditure, except that in the case of loans and loan guarantees, the recipient may provide equity or subordinated debt equal to at least ~~twenty-five~~ percent (25%) of the loan or loan guarantee. This constraint will not be applicable to the distribution for a clean alternative fuel equal to approximately the first ~~fifteen~~ percent (15%) of the distribution of the gasoline distribution system.

(d) Any funds that remain in the account after ~~ten~~ years shall be divided equally between the Gasoline and Diesel Use Reduction Account and the Research and Innovation Acceleration Account.

~~Sec~~ 26059. Standards for Vocational Training Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26053 consistent with the goal of training students to work with renewable energy technologies, such as solar, geothermal, wind, and wave technologies, or energy efficiency technologies, in buildings, equipment, electricity generation, clean alternative fuels, and clean alternative fuel vehicles. Prior to making any expenditures pursuant to Section 26053, the authority shall adopt a strategic plan pursuant to subdivision (a) of Section 26045.

(b) All expenditures made pursuant to Section 26053 shall be based upon a competitive selection process, established pursuant to subdivision (b) of Section 26045. Pursuant to the competitive selection process, the authority shall, at a minimum:

(1) Ensure that the expenditure is for training in renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles.

(2) Ensure that the expenditure does not supplant existing state funding for training in renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles.

(3) Evaluate the quality of the program, the potential for achieving significant results, including consideration of how the expenditure will aid or result in training

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workers in renewable energy technologies, energy efficiency technologies, clean alternative fuels, or clean alternative fuel vehicles in California, and the time frame for achieving that goal.

(4) Ensure that the expenditure is consistent with the two-year and ten-year strategic plan adopted by the authority.

~~Sec.~~ 26060. Standards for Public Education and Administration Account Expenditures.

(a) The authority shall make expenditures pursuant to Section 26054 consistent with the goal of educating the public regarding the importance of energy efficiency technologies, renewable energy technologies, and full life-cycle petroleum reduction, and reporting on the progress of the program, and of efficiently administering the authority.

(b) At least ~~twenty-eight and one-half~~ percent (28.5%) of the funds in the Public Education and Administration Account shall be expended for the purpose of public education regarding funded technologies.

ARTICLE 5. ACCOUNTABILITY

~~Sec.~~ 26061. (a) In addition to the report required by Section 26017, the authority shall issue an annual report to the Governor, the Legislature, and the public which sets forth its activities, its accomplishments, and future program directions. Each annual report shall include, but not be limited to, the following: the number and dollar amounts of incentives including, but not limited to, grants, loans, loan guarantees, credits, and buydowns; the recipients of incentives for the prior year; the authority's administrative expenses; a summary of research findings, including promising new research areas and technological innovations; and an assessment of the relationship between the authority's award of incentives and the authority's strategic plan.

(b) The authority shall annually commission an independent financial audit of its activities from a certified public accountant which shall be provided to the State Controller, who shall review the audit and annually issue a public report of that review.

(c) There shall be a Citizens' Financial Accountability Oversight Committee chaired by the State Controller. This committee shall review the annual financial audit and the State Controller's report and evaluation of that audit. The State Controller, the State Treasurer, the President ~~Pro Tem~~ of the Senate, the Speaker of the Assembly, and the chairperson of the authority shall each appoint a public member of the committee. The committee shall provide recommendations regarding the authority's financial practices and performance. The State Controller shall provide staff support. The committee shall hold a public meeting, with appropriate notice, and a formal public comment period. The committee shall evaluate public comments and include appropriate summaries in its annual report.

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SECTION 18. Part 21 is hereby added to Division 2 of the Revenue and Taxation Code, to read:

Part 21. California Energy Independence Fund Assessment Law

Sec. 42000. This Part shall be known and may be cited as the "California Energy Independence Fund Assessment Law."

Sec. 42001. For purposes of this Part, the following definitions shall apply:

(a) "Authority" means the California Energy Alternatives Program Authority, which is established in Division 16 (commencing with Section 26000) of the Public Resources Code.

(b) "Barrel of oil" means 42 United States gallons or 231 cubic inches per gallon computed at a temperature of 60 degrees Fahrenheit.

(c) "Board" means the State Board of Equalization.

(d) "Consumer" means an individual, firm, partnership, association, or corporation who buys for his or her own use, or for the use of another, but not for resale.

(e) "First purchaser" means a person who purchases oil from a producer.

(f) "Gross value" means the sale price at the mouth of the well for oil, including any bonus, premium, or other thing in value paid for the oil. If oil is exchanged for something other than cash, or if there is no sale at the time of severance, or if the relation between the buyer and the seller is such that the consideration paid, if any, is not indicative of the true value or market price, then the board shall determine the value of the oil subject to the fee, based on the cash price paid to producers for like oil in the vicinity of the well.

(g) "Oil" means petroleum, or other crude oil, condensate, casing head gasoline, or other mineral oil that is mined, produced, or withdrawn from below the surface of the soil or water in this state.

(h) "Producer" means any person who takes oil from the earth or water in this state in any manner; any person who owns, controls, manages, or leases any oil well in the earth or water of this state; any person who produces or extracts in any manner any oil by taking it from the earth or water in this state; any person who acquires the severed oil from a person or agency exempt from property taxation under the Constitution or laws of the United States or under the Constitution or laws of the State of California; and any person who owns an interest, including a royalty interest, in oil or its value, whether the oil is produced by the person owning the interest or by another on his behalf by lease, contract, or other arrangement.

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(i) "Production" means the total gross amount of oil produced, including the gross amount thereof attributable to a royalty or other interest.

(j) "Severed" or "severing" means the extraction or withdrawing from below the surface of the earth or water of any oil, whether extraction or withdrawal shall be by natural flow, mechanical flow, forced flow, pumping, or any other means employed to get the oil from below the surface of the earth or water and shall include the withdrawing by any means whatsoever of oil upon which the assessment has not been paid, from any surface reservoir, natural or artificial, or from a water surface.

(k) "Stripper well" means a well that has been certified by the board as an oil well incapable of producing an average of more than ten barrels of oil per day during the entire taxable month. Once a well has been certified as a stripper well, such stripper well shall remain certified as a stripper well until the well produces an average of more than 10 barrels of oil per day during an entire taxable month.

Sec. 42002. Effective January 1, 2007, and except as provided for in Section 42007, there is hereby imposed a California Energy Independence Fund Assessment upon the privilege of severing oil from the earth or water in this state for sale, transport, consumption, storage, profit, or use. The assessment shall be borne ratably by all persons within the term "producer" as that term is defined in subdivision (h) of Section 42001. The fee shall be applied to all portions of the gross value of each barrel of oil severed as follows:

(a) One and one-half percent (1.5%) of the gross value of oil from $10 to $25 per barrel;

(b) Three percent (3.0%) of the gross value of oil from $25.01 to $40 per barrel;

(c) Four and one-half percent (4.5%) of the gross value of oil from $40.01 to $60 per barrel; and

(d) Six percent (6.0%) of the gross value of oil from $60.01 per barrel and above.

Sec. 42003. Except as otherwise provided in this Part, the assessment shall be upon the entire production in this state, regardless of the place of sale or to whom sold or by whom used, or the fact that the delivery may be made to points outside the state.

Sec. 42004. (a) Producers or purchasers of oil, or both, are authorized and required to withhold from any payment due interested parties the proportionate amount of the assessment due.

(b) The assessment imposed by this Part is the primary liability of the producer and is a liability of the first purchaser and each subsequent purchaser. Failure of the producer to pay the assessment does not relieve the first purchaser or a subsequent purchaser from liability for the assessment. A purchaser of oil produced in this state

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shall satisfy himself or herself that the assessment on that oil has been or will be paid by the person liable for the assessment.

(c) The assessment imposed by this Part shall not be passed on to consumers through higher prices for oil, gasoline, or diesel fuel. At the request of the authority, the board shall investigate whether a producer, first purchaser, or subsequent purchaser has attempted to gouge consumers by using the assessment as a pretext to materially raise the price of oil, gasoline, or diesel fuel.

~~Sec~~ 42005. The assessment imposed by this Part shall be in addition to any ad valorem taxes imposed by the state, or any of its political subdivisions, or any local business license taxes which may be incurred as a privilege of severing oil from the earth or doing business in that locality. No equipment, material, or property shall be exempt from payment of ad valorem tax by reason of the payment of the gross tax pursuant to this Part.

~~Sec~~ 42006. Two or more producers that are corporations and are commonly owned or controlled directly or indirectly, as defined in Section 25105, by the same interests, shall be considered as a single producer for purposes of application of the assessment prescribed by this Part.

~~Sec~~ 42007. The California Energy Independence Fund Assessment imposed pursuant to this Part does not apply to:

(a) Oil owned or produced by any political subdivision of the state, including that political subdivision's proprietary share of oil produced under any unit, cooperative, or other pooling agreement.

(b) Oil produced by a stripper well in any month in which the average value of oil is less than $50 per barrel. If in any month the average value of oil is $50.01 or more per barrel, a stripper well shall be subject to a fee in the amount of ~~three~~ percent (3%) of the gross value of oil above $50.01.

~~Sec~~ 42008. The assessment imposed by this Part shall be due and payable to the board on a monthly basis. The board has broad discretion in administering this Part and may prescribe the manner in which all payments are made to the state under this Part, and the board may prescribe the forms and reporting requirements as necessary to implement the assessment, including, but not limited to, information regarding the location of the well by county, the gross amount of oil produced, the price paid therefor, the prevailing market price of oil, and the amount of assessment due. The board may employ auditors, investigators, engineers, and other persons to engage in all activities necessary for the implementation of this Part, including to verify reports and investigate the affairs of producers and purchasers to determine whether the assessment imposed by this Part is properly reported and paid. In all proceedings under this Part, the board may act on behalf of the people of the State of California.

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Sec. 42009. The board shall enforce the provisions of this Part and may prescribe, adopt, and enforce rules and regulations, including, but not limited to, the payment of interest, the imposition of penalties, and any other action permitted by Sections 6451 to 7176, inclusive, or Sections 38401 to 38901, inclusive, whichever are most applicable as determined by the board, relating to the application, administration, and enforcement of this Part.

Sec. 42010. (a) All assessments, interest, penalties, and other amounts collected pursuant to this Part shall be deposited in the California Energy Independence Fund, which is established by Article XXXVI of the California Constitution. Before allocating funds pursuant to subdivisions (a) or (b) of Section 26049 of the Public Resources Code, the authority shall reimburse the board for expenses incurred in the administration and collection of the assessment imposed by this Part. The board shall transfer moneys received from the aforementioned sources to the California Energy Independence Fund at least once per calendar month.

(b) This Part shall become inoperative after the authority has expended four billion dollars ($4,000,000,000) pursuant to subdivision (d) of Section 26045 of the Public Resources Code and after all indebtedness associated with the Clean Alternative Energy Act, including principal, interest, ancillary obligations, and other costs of any bonds issued pursuant to Division 16 (commencing with Section 26000) of the Public Resources Code, secured by a pledge of the assessment created by this Part, has been paid or payment has been provided for, unless a later enacted statute, that becomes operative on or before the date this Part becomes inoperative, deletes or extends the date on which it becomes inoperative. Notwithstanding the foregoing, so long as any bonds or other obligations secured by the assessment created by this Part remain outstanding, neither the Legislature nor the people may reduce or eliminate the assessment, and this pledge may be included in the proceedings of any such bonds as a covenant with the holders of such bonds.

SECTION 19. LEGAL CHALLENGE.

Any challenge to the validity of this Act must be filed within six months of the effective date of this Act.

SECTION 20. AMENDMENT.

The statutory provisions of this Act may be amended to carry out its purpose and intent by statutes approved by a two-thirds vote of each house of the Legislature and signed by the Governor.

SECTION 21. SEVERABILITY.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, including subdivision (c) of Section 42004 of the Revenue and Taxation Code and subdivision (c) of Section 26054 of the Public Resources Code,

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that invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 22. CONFLICTING INITIATIVES.

In the event that this measure and another initiative measure or measures that impose an assessment, royalty, tax, or fee on the extraction of oil or that involve petroleum reduction shall appear on the same statewide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measure shall be null and void.

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TEXT OF PROPOSITION 88

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PROP 58

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sections

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure expressly amends the California Constitution by adding ~~an article~~ thereto; and amends a section of the Government Code, and adds sections to the ~~Health and Safety~~ Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

Education

PROPOSED LAW

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SA2005RF0126

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Section 1. Title

This measure shall be known and may be cited as the Classroom Learning and Accountability Act.

Section 2. Findings and Declaration of Purpose

The People of the State of California find and declare that:

(a) California students are falling behind, ranking among the bottom six states in reading and math. In the nation's five biggest states, only California students score below average on every national assessment of educational progress.

(b) Independent research indicates that California's poor student achievement is caused, in part, by inadequate resources for public education, including low funding levels, high class sizes, inadequate facilities, and students with relatively greater needs. Education funding in California is chronically below the national average, even though California students are expected to meet some of the highest academic standards in the country.

(c) California's economic and social prosperity depend on a well-educated workforce capable of competing in a global economy.

(d) In order to improve student achievement, new investment is needed to reduce class sizes, provide textbooks and other instructional materials, improve campus safety, and provide facilities for high-quality public charter schools with greater parental and community involvement.

(e) A parcel assessment for public schools will raise needed funds for student achievement, while protecting property owners against runaway taxes—especially seniors with fixed incomes. Parcel assessments have been approved by voters in dozens of California communities, and they are consistent with Proposition 13 of 1978.

(f) New funding for public education must come with safeguards against waste and mismanagement. The entirety of the Classroom Learning and Accountability Fund will be subject to oversight and annual independent audits. Annual audits will ensure that every penny goes into classrooms and student learning, where it is needed most.

(g) The Legislature is expressly prohibited from using money from the Fund to supplant other funding or redirect money to other, less critical needs. This act specifies that the Fund shall not be used to pay administrative overhead. Misuse of funds will result in criminal penalties, loss of credentials, and/or fines.

(h) Money from the Fund will be used to collect information that will evaluate the effectiveness of specific educational programs and investments. Schools, researchers, and other agencies will be better able to analyze the link between specific investments and the impact on student achievement.

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9. Homeowners 65 years of age or older are fully exempted from the provisions of this act. Senior Citizens will not be burdened by the creation of the Fund.

10. This act pays for itself. The Fund will improve education without affecting any State services or programs currently supported by the State General Fund.

Therefore, the People of the State of California hereby adopt the Classroom Learning and Accountability Act.

~~Section 3.~~ Section 6.2 is added to Article IX of the Constitution of the State of California, to read ~~as follows~~:

~~SECTION~~ 6.2. (a) The Classroom Learning and Accountability Fund is hereby created in the State Treasury to be held in trust for the purposes set forth below and is continuously appropriated for the support of kindergarten through twelfth grade educational programs.

(b) Classroom Learning and Accountability Funds shall not be used to pay for administrative overhead and shall be used for the following educational purposes only:

(1) ~~$175 million~~ to reduce class sizes in grades kindergarten through 12, inclusive.

(2) ~~$100 million~~ for textbooks and other instructional materials approved by the State Board of Education as consistent with the State curriculum frameworks and academically rigorous content standards.

(3) ~~$100 million~~ to enhance the safety and security of ~~students~~, teachers, and school staff through school community policing, gang-risk intervention, afterschool and intersession student support and development, and school community violence prevention.

(4) ~~$85 million~~ for Academic Success facility grants to any qualifying school district which has not received funding from the proceeds of a State general obligation bond for school construction or modernization. A school district receiving an Academic Success facility grant shall not be eligible for funding from the proceeds of a State general obligation bond for school construction or modernization unless the law authorizing the bond and approved by a vote of the people expressly provides ~~such~~ eligibility.

(5) ~~$10 million~~ for an integrated longitudinal teacher and ~~student~~ achievement data system that provides a better means of evaluating the efficiency and effectiveness of educational programs and investments.

(c) The amounts deposited in the Classroom Learning and Accountability Fund shall be used exclusively for the purposes set forth in this section. All moneys in the Classroom Learning and Accountability Fund shall be used to supplement and not supplant federal, State, or local funds used for educational programs. The Legislature shall set penalties, including loss of credentials and/or fines, for school districts, county offices of education, public charter schools, and any administrator that misuses funds appropriated and allocated pursuant to this section.

(d) Funds appropriated pursuant to paragraphs (1) through (3), inclusive, of subdivision (b) shall be apportioned directly to school districts, county offices of education, and public charter schools on a per-~~student~~ basis. Using variables and data that are objective, measurable, and auditable, the Legislature shall weight the per-~~student~~ allocation to account for differential

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student-level costs associated with achieving State and federal achievement standards based on disabilities, English proficiency, or socioeconomic status.

(e) The allocation of funds in subdivision (b) shall be adjusted annually on a proportional basis to reflect actual revenues received and interest earned.

(f) None of the provisions of this section shall alter or affect any right to equal protection provided by this Constitution.

Section 4. Section 21.5 is added to Article XIIIA of the Constitution of the State of California to read as follows:

SECTION 21.5. (a) An assessment of fifty dollars ($50) shall be levied on each real property parcel that is not otherwise exempt from property taxation pursuant to this Article. The assessment shall be collected annually at the same time and in the same manner as the ad valorem property tax.

(b) A parcel shall be exempt from the assessment described in this section if the owner of the parcel (i) resides on the parcel, (ii) is eligible for the homeowner's exemption under subdivision (k) of Section 3 of Article XIII, and (iii) is either a person 65 years of age or older, or is a severely and permanently disabled person as that term is defined by the Revenue and Taxation Code.

(c) For purposes of this section, "parcel" means any unit of real property in the State that receives a separate tax bill for ad valorem property taxes. Any property that is otherwise exempt from or on which is levied no ad valorem property taxes in any year shall also be exempt from the parcel tax levied by this section in such year.

(d) Each fiscal year, the revenue generated by the assessment described in this section shall be calculated and transferred as follows:

(1) No more than two tenths of one percent shall be appropriated to counties for the purpose of defraying the costs incurred in implementing this section.

(2) The amount necessary to offset any decrease in State personal and corporate income tax revenues caused by increased deductions taken as a result of the assessments described by this section shall be transferred to the State General Fund.

(3) After the transfer of the amounts calculated in paragraphs (d)(1) and (2) above, the remainder, including any interest earned thereon, shall be transferred to the Classroom Learning and Accountability Fund established in Section 6.2 of Article IX.

Section 5. Section 14 is added to Article XIIIB of the Constitution of the State of California to read as follows:

SECTION 14. (a) "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the Classroom Learning and Accountability Fund established in Section 6.2 of Article IX. No adjustment in the appropriations limit of any entity of government shall be required pursuant to Section 3 as a result of revenue being deposited in or appropriated from the Classroom Learning and Accountability Fund.

(b) For purposes of this article, "proceeds of taxes" shall not include the revenues derived from the taxes imposed pursuant to Section 21.5 of Article XIIIA, but shall include those revenues described in paragraph (d)(2) of Section 21.5 of Article XIIIA.

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~~Section~~ 6. **Section 8.3 is added to Article XVI of the Constitution of the State of California to read ~~as follows~~:**

~~SECTION~~ 8.3. (a) With the exception of the revenue described in paragraph (d)(2) of Section 21.5 of Article XIIIA of the California Constitution, revenues derived from the taxes imposed by Section 21.5 of Article XIIIA shall not be deemed to be "General Fund revenues which may be appropriated pursuant to Article XIIIB" as that phrase is used in paragraph (1) of subdivision (b) of Section 8 nor shall they be considered in the determination of "per capita General Fund revenues" as that term is used in paragraph (3) of subdivision (b) and in subdivision (e) of Section 8.

(b) Funds appropriated pursuant to Section 6.2 of Article IX shall not be deemed to be part of "total allocations to school districts and community college districts from General Fund proceeds of taxes appropriated pursuant to Article XIIIB" as that phrase is used in paragraphs (2) and (3) of subdivision (b) of Section 8.

~~Section~~ 7. **Section 14003 is added to the Education Code to read ~~as follows~~:**

~~SECTION~~ 14003. No moneys distributed from the Classroom Learning and Accountability Fund shall be included in calculating and apportioning funds as provided in Sections 2558, 42238, or 56836.08. Nor shall moneys distributed from the Classroom Learning and Accountability Fund be included in a school district's expenditures pursuant to Section 33128. With the exception of funds for Academic Success facility grants described in Section 52057.1, the Controller shall distribute the revenues in the Classroom Learning and Accountability Fund at least twice during the fiscal year.

~~Section~~ 8. **Section 41020.4 is added to the Education Code to read ~~as follows~~:**

~~SECTION~~ 41020.4. Each fiscal year, every school district shall provide for an annual independent audit of the moneys received from the Classroom Learning and Accountability Fund. The audit may be prepared as part of any annual audit already required, but it shall show how moneys received from the Classroom Learning and Accountability Fund were spent by category and program. The audit shall be reviewed by the applicable county superintendent of schools and the Superintendent of Public Instruction who shall, along with the school district, post the audit reports on their web sites.

~~Section~~ 9. **Section 52057.1 is added to the Education Code to read ~~as follows~~:**

~~SECTION~~ 52057.1. (a) It is the intent of this section that facility grants for school districts be directed towards all eligible schools, including charter schools. Therefore, funds for Academic Success facility grants appropriated pursuant to paragraph (4) of subdivision (b) of Section 6.2 of Article IX of the California Constitution shall be apportioned directly to qualifying school districts as defined by this section.

(b) For purposes of this section, the following definitions shall apply:

(1) A "qualifying school district" is an academically successful eligible charter school or a school district with one or more academically successful schools other than eligible charter schools. Neither a school district that is formed pursuant to Chapters 3 or 4 of Part 21

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(commencing with Section 35500) or Chapter 4 (commencing with Section 35700) of Part 21, and whose former districts received funding from the proceeds of a State general obligation bond for school construction or modernization, nor a county office of education is a "qualifying school district."

(2) An "academically successful school" is a school ranked in deciles 6 to 10, inclusive, on the Academic Performance Index when compared to similar schools as reported for the prior academic year by the State Board of Education.

(3) An "eligible charter school" is a charter school operated and governed by or as a nonprofit public benefit corporation, formed and organized pursuant to the applicable nonprofit public benefit corporation law, where the majority of the certificated teachers at the school are employees of the nonprofit corporation

(c) Academic Success facility grants shall be distributed to qualifying school districts at the time of the second principal apportionment in the form of general purpose funding. Subject to subdivision (d), Academic Success facility grants shall be five hundred dollars ($500) per student and shall be awarded on a per student basis for each student enrolled in an academically successful school. Provided, however, that students in academically successful eligible charter schools shall not be counted in calculating the amount of any Academic Success facility grant that is distributed to a school district.

per-pupil pupil pupil pupil italic

(d) Notwithstanding subdivision (c), if at the time of the second principal apportionment there are insufficient moneys in that portion of the Classroom Learning and Accountability Fund described by paragraph (4) of subdivision (6) of Section 6.2 of Article IX of the California Constitution to provide for the per-pupil allocation specified in subdivision (c), the per-pupil allocation shall be adjusted on a proportional basis to ensure that all qualifying school districts receive an Academic Success facility grant in an equal amount per student. pupil

(e) Any moneys remaining in that portion of the Classroom Learning and Accountability Fund described by paragraph (4) of subdivision (b) of Section 6.2 of Article IX of the California Constitution after apportionment of funds for Academic Success facility grants as required by this section, shall remain in the Classroom Learning and Accountability Fund and shall be available for distribution to qualifying school districts in the following year.

¶ **~~Section~~ SEC. 10. Section 60901 is added to the Education Code to read ~~as follows~~:**

¶ ~~SECTION~~ 60901. Each school district shall participate in the collection and reporting of data necessary for the creation and maintenance of the State's integrated longitudinal teacher and ~~student~~ pupil data system as defined by the Legislature and described in paragraph (5) of subdivision (b) of Section 6.2 of Article IX of the California Constitution.

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¶ **~~Section~~ SEC. 11. Section 13340 of the Government Code is amended to read ~~as follows~~:**

¶ ~~SECTION~~ 13340. (a) Except as provided in subdivision (b), on and after July 1, ~~2006~~ 2007, no moneys in any fund that, by any statute other than a Budget Act, are continuously appropriated without regard to fiscal years, may be encumbered unless the Legislature, by statute, specifies that the moneys in the fund are appropriated for encumbrance.

(b) Subdivision (a) does not apply to any of the following:

(1) The scheduled disbursement of any local sales and use tax proceeds to an entity of local government pursuant to Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code.

(2) The scheduled disbursement of any transactions and use tax proceeds to an entity of local government pursuant to Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code.

(3) The scheduled disbursement of any funds by a State or local agency or department that issues bonds and administers related programs for which funds are continuously appropriated as of June 30, ~~2006~~ 2007.

(4) Moneys that are deposited in proprietary or fiduciary funds of the California State University and that are continuously appropriated without regard to fiscal years.

(5) The scheduled disbursement of any motor vehicle license fee revenues to an entity of local government pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code).

(6) Moneys that are deposited in the Classroom Learning and Accountability Fund.

~~Section~~ Sec. 12. Severability

The provisions of this measure are severable. If any provision of this measure or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

~~Section~~ Sec. 13. Amendment

This Act shall be broadly construed to accomplish its purposes. Any of the statutory provisions of this Act may be amended by a bill that complies with the single-subject rule expressed in Section 9 of Article IV of the California Constitution, and that is passed by a two-thirds vote of the Legislature and signed by the Governor, so long as ~~such~~ the amendments are consistent with and further the intent of this Act.

~~Section~~ Sec. 14. Effective Date

This Initiative shall go into effect on July 1, 2007.

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TEXT OF PROPOSITION 89

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PROP. 89

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Elections Code, the Government Code, and

This initiative measure is submitted to the people in accordance with the provisions of Section 8 of Article II of the California Constitution.

This initiative measure amends, repeals, and adds sections to the ~~Health and Safety Code,~~ the Revenue and Taxation Code ~~and the Welfare and Institutions Code~~; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

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1216

SA2006RF0015, AMDT. #2-S

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No. SA2006RF0015
[Filed: 1/23/06]
[First Amendment: 2/3/06]
[Second Amendment: 2/7/06]

CALIFORNIA NURSES CLEAN MONEY AND FAIR ELECTIONS ACT OF 2006

SECTION 1. Chapter 12 (commencing with Section 91015) is added to Title 9 of the Government Code, to read:

CHAPTER 12. California Clean Money and Fair Elections Act of 2006

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Article 1. General

91015. This chapter shall be known and may be cited as the California Clean Money and Fair Elections Act of 2006.

91017. The people find and declare all of the following:

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(a) The constitutional system of popular governance of the State of California is in serious jeopardy. The health of the state's democracy has been undermined by the state's campaign finance rules. Current regulation of campaign finance practices in California is insufficient. Nearly 60% of Californians have expressed their concern that California's campaign finance system needs major changes.

percent

(b) The increasing costs of political campaigns have forced candidates to raise a larger percentage of their campaign funds from special interests that have a specific financial or commercial stake in the outcome of the elections.

(c) Unlimited corporate-funded election-related spending and unlimited contributions to ballot measure and general purpose committees controlled by California elected officials and candidates are leading to corruption, or the appearance of corruption, of the election process, have produced corrosive and distorting effects on the electoral process, and have created a loss of public confidence in the fairness of the electoral process.

(d) Corruption and the appearance of corruption is a major problem in California politics. Large campaign contributors and spenders are able to buy access to California's elected officials, thereby unduly influencing the legislative and executive agenda and policy choices. At the very least, there is a troublesome appearance of corruption when, for

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example, the Governor sponsors a $500,000 per plate dinner with bond traders to raise funds supporting a bond-related ballot measure. Californians fear that in some instances large contributions are given to secure a political quid pro quo from current and potential officeholders.

(~~7~~ e) The current campaign finance system burdens candidates with the incessant rigors of fundraising and thus decreases the time available to carry out their public responsibilities.

(~~6~~ f) The current campaign finance system diminishes the free speech rights of a majority of voters and candidates whose voices are drowned out by corporations with unlimited funds to expend for monopolizing the arena of paid political communications to further their own private commercial interests.

(~~7~~ g) The current campaign finance system fuels the public perception of corruption at worst and conflict of interest at best and undermines public confidence in the democratic process and democratic institutions.

(~~8~~ h) The ever-increasing costs of political campaigns in competitive races force most candidates to raise larger and larger percentages of their campaign funds from interest groups that have a specific financial stake in the outcome of the elections and in matters before our state government.

(~~9~~ i) Existing term limits place a greater demand on fundraising for the next election even for elected officials in safe seats.

(~~10~~ j) The rapidly increasing amounts of independent expenditures point to a growing trend of special interest groups to fund independent expenditures in an effort to skirt the contribution laws.

(~~11~~ k) The current campaign finance system undermines the First Amendment right of voters and candidates to be heard in the political process, undermines the First Amendment right of voters to hear all candidates' speech, and undermines the core First Amendment value of open and robust debate in the political process.

(~~12~~ l) The number of candidates and issues attracting campaign contributions varies widely among candidate races. The costs in some election races are minimal while others draw expenditures in excess of one million dollars ($1,000,000). This ~~A~~ct addresses the range of competitive election races by providing smaller amounts of public funds in noncompetitive races and much larger amounts in competitive contests. As a result, the ~~A~~ct saves the taxpayers of California from unnecessarily expending large amounts of public funds.

(~~13~~ m) In states where the clean money and clean election laws have been enacted and used,

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election results show that more individuals, especially women and minorities, run as candidates; voter turnout increases and overall campaign costs decrease.

(14) The current campaign finance system creates a danger of actual corruption by encouraging elected officials to take funds from private interests that are directly affected by governmental actions.

(15) Under the state's current campaign finance rules, contributors may secure that political quid pro quo by making unlimited contributions to ballot measure and general purpose committees controlled, formally or informally, by candidates and state elected officials. More than $84 million has poured into these committees since 1990, much of it from large corporate contributors, from those with important business with the state, and from wealthy contributors whose financial interests are affected by state decisions.

(16) Powerful corporate and commercial interests have transformed initiative and referendum campaigns into a new arena for gaining commercial advantage and exploiting business opportunities at the expense of the public interest and welfare. Hundreds of millions of dollars are spent by corporate business interests in the initiative and referendum process to advance private, self-interested business plans, deregulate legal protections preserving the public health and welfare, and disable governmental institutions and programs essential to popular governance in the interests of the people. Established by the voters in 1911 as a means of curtailing the political influence of corporate interests, the initiative process now primarily serves corporate and commercial interests.

(17) Candidate elections and ballot measure elections in California are intertwined, not separate events. California state candidates, officeholders, and political parties often endorse, oppose, and actively campaign for and against ballot measures, and use those measures as part of an overall electoral strategy. Thus, the potential for candidate corruption and the appearance of corruption exists in all ballot measure campaigns in California.

(18) Campaign-related spending by business corporations is especially corrupting because of its corrosive and distorting effects. The immense aggregations of wealth that are accumulated with the help of the corporate form have little or no correlation to the public's support for the corporation's political ideas, and corporations should not be allowed to exert an undue influence on the outcome of candidate and ballot measure elections. Nearly 80% of Californians have complained that business corporations have too much influence on candidate elections and ballot initiatives.

(19) California's existing campaign finance rules that permit unchecked corporate spending are also undermining the public's confidence in the election process. A majority of Californians believe that campaign contributions are having a negative effect on the

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public policy made by state officials in Sacramento. Nearly 8 in 10 California voters say that their state government is run by a few big interests, and 92% of California voters believe the initiative process is controlled "some" or "a lot" by special interests.

(20) Corporate spending in the election process exerts an undue influence on the outcome of the vote, and — in the end — destroys the confidence of the people in the democratic process and in the integrity of government. Corporate advocacy threatens imminently to undermine democratic processes, thereby denigrating rather than serving First Amendment interests. However, contributions or expenditures by certain nonprofit organizations do not present these same dangers.

(21) Of particular concern are social science studies proving that large spending by corporations in ballot measure campaigns is very successful in blocking ballot measures that are otherwise popularly supported by the voters.

(22) Limits on corporate election-related spending and on contributions to candidate-controlled ballot measure committees do not violate the First Amendment. The Supreme Court has recognized that restrictions on direct corporate contributions and expenditures are constitutional when necessary to preserve voter confidence in the election process, to prevent candidate corruption or the appearance of corruption, or to prevent the distorting effect of corporate campaign contributions and expenditures. The Supreme Court has also recently recognized that corporate contributions are furthest from the core of political expression, since corporations' First Amendment speech and association interests are derived largely from those of their members and of the public in receiving information. Limits on direct corporate contributions leave individual officers, employees, and members of corporations free to make their own political contributions, and therefore deprives the public of little or no material information. The same rationale applies to restrictions on corporate political expenditures.

(23) Experience in the federal election process regarding the emergence of "sham issue advocacy" leads California voters to anticipate that corporations will attempt to circumvent any new limits on corporate express advocacy in candidate and ballot measure elections through the use of campaign advertising that avoids the "magic words" of express advocacy. A bright-line "electioneering communications" provision is therefore necessary to prevent corporations from exploiting a loophole in the law that would allow unlimited corporate spending on election-related campaign advertising.

(24) California's initiative process was established to enable individual citizens to join together to act as lawmakers when elected officials are too beholden to corporate interests to take action on matters of public safety and necessity. Thus the initiative process was intended to provide citizens with a collective opportunity to make their views known and voices heard, so as to engage in self-government, when the views of corporate interests predominate in the Legislature. Corporations are not humans; they are

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creatures of the state that are licensed upon agreement to comply with the norms of conduct imposed upon them, in exchange for which they are accorded the right to do business in the state and numerous other privileges.

(25) Through the use of money, corporations have come to exercise enormous influence, and often outright control, over the actions of the executive and legislative branches in California. Money from various corporate interests has effectively paralyzed the legislature from enacting laws that would protect the public. Similarly, through their use of their financial resources, corporations now overwhelmingly dominate the initiative process, either to prevent citizens from effectively exercising their right to promote ballot initiatives, or to enact legislation that the Legislature, paralyzed by competing special interests, will not enact. Indeed, business corporations now routinely employ "counter initiatives" designed not to pass the measures themselves, but to discourage voters from supporting or even voting upon citizen-sponsored ballot measures that the corporations oppose. Finally, elected officials and candidates for public office have begun to utilize the initiative process to both solicit funds from corporations whose financial interests would be served by proposed initiative legislation, and to escape the more stringent rules governing contributions to candidates for public office.

91019. The people enact this chapter to accomplish the following purposes:

(a) To reduce the influence of large contributions on the decisions made by state government.

(b) To remove wealth as a major factor affecting whether an individual chooses to become a candidate.

(c) To provide a greater diversity of candidates to participate in the electoral process.

(d) To reverse the escalating cost of elections that have increased far beyond the rate of inflation.

(e) To permit candidates to pursue policy issues instead of being preoccupied with fundraising and allow officeholders to spend more time carrying out their public duties.

(f) To diminish the danger of actual corruption and the public perception of corruption and strengthen public confidence in the governmental and election processes.

(g) To ensure that independent expenditures are not used to evade contribution limits.

(h) To foster more equal and meaningful participation in the political process.

(i) To provide candidates who participate in the Clean Money program with sufficient

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resources with which to communicate with voters.

(j) To increase the accountability of each elected official to the constituents who elect him or her, as opposed to the contributors who fund his or her campaigns.

(k) To provide voters with timely information regarding the sources of campaign contributions, expenditures, and political advertising.

(l) To prevent corruption, the appearance of corruption, and a decline in voter confidence in the integrity of the electoral and political process by imposing reasonable limits on contributions made to ballot measure committees controlled formally or informally by candidates.

(m) To prevent the distorting effect of campaign contributions and expenditures by business corporations, which threaten imminently to undermine the democratic process, and to restore the confidence of the people in the electoral process and in the integrity of government, by requiring that corporations desiring to engage in election-related spending in California do so through separate segregated funds that protect their First Amendment rights.

(n) To limit the opportunity for circumvention of important campaign finance rules enacted to avoid corruption, the appearance of corruption, distortion of the political process, and a decline in voter confidence by adopting reasonable restrictions governing electioneering communications, aggregate contribution limits, and inter-candidate and inter-committee transfers of campaign funds.

Article 2. Applicability to the Political Reform Act of 1974

91023. Unless specifically superseded by provisions of this chapter, the definitions and provisions of chapters 1 ~~through~~ to 11 inclusive, of this title (the Political Reform Act), shall govern the interpretation of this chapter.

Article 3. Definitions

91025. For purposes of the contribution limits of this chapter:

(a) The contributions of an entity whose contributions are directed and controlled by any individual shall be aggregated with contributions made by that individual and any other entity whose contributions are directed and controlled by the same individual.

(b) If two or more entities make contributions that are directed and controlled by a majority of the same persons, the contributions of those entities shall be aggregated.

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(c) Contributions made by entities that are majority-owned by any person shall be aggregated with the contributions of the majority owner and all other entities majority-owned by that person, unless those entities act independently in their decisions to make contributions.

91027. "Coordination" means a payment made for a communication or anything of value that is for the purpose of influencing the outcome of an election for elective state office and that is made by any one or more of the following methods:

(a) By a person in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to a particular understanding with a candidate, a candidate's controlled committee, or an agent acting on behalf of a candidate or a controlled committee;

(b) Based on specific information about the candidate's plans, projects, or needs provided to the person making the payment by the candidate or the candidate's agent who provides the information with a view toward having the payment made; or

(c) By a person if, in the same primary or general election in which the payment is made, the person making the payment is serving as a member, employee, fundraiser, or agent of the candidate's controlled committee in an executive or policymaking position.

91028. "District" means:

(a) In the case of an election for the state legislature or the Board of Equalization, the numeric district in which the candidate is seeking office.

(b) In the case of an election for statewide elective office, the State of California.

91029. "Entity" means any person other than an individual.

91031. "Excess expenditure amount" means the amount of funds spent or obligated to be spent by a nonparticipating candidate in excess of the Clean Money amount available to a participating candidate running for the same office. If a participating candidate has made the choice specified in subdivision (c) of Section 91097 in an election where there is more than one participating candidate, then the Clean Money amount available to the participating candidate shall be considered to be the actual amount paid by the Clean Money Fund to the candidate for that primary or general election period, including any increase or decrease effected by the choice.

91033. "Exploratory period" means the period beginning 18 months before the primary election and ending on the last day of the qualifying period. The exploratory period begins before, but extends to the end of, the qualifying period.

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¶ **91035.** "General election campaign period" means the period beginning the day after the primary election and ending on the day of the general election.

¶ **91037.** "Independent candidate" means a candidate for elective state office who does not represent a political party that has been granted ballot status for the general election and who has qualified to be on the general election ballot.

¶ **91041.** "Majority-owned" means an ownership of 50 percent or more.

¶ **91043.** "Nonparticipating candidate" means a candidate for elective state office who is on the ballot but has chosen not to apply for Clean Money campaign funding and a candidate who is on the ballot and has applied but has not satisfied the requirements for receiving Clean Money funding.

¶ **91045.** "Office-qualified party" means a party whose gubernatorial nominee has received 10 percent or more of the votes at the last election or whose candidate for the same elective state office in the same district, whether statewide or legislative, as the current candidate seeking Clean Money funding received 10 percent or more of the votes at the last election.

¶ **91046.** "Office-qualified candidate" is a candidate seeking nomination for an elective state office from an office-qualified party.

¶ **91047.** "One party dominant legislative district" is a district in which the number of registered voters for the party with the highest number of registered voters exceeds the number of registered voters for each of the other parties by an amount no less than 20 percent of the total number of registered voters in the district.

¶ **91047.5.** "Paid Circulator," for the purpose of collecting qualifying contributions and as used in this chapter, means any person who is compensated with money or anything of value for collecting qualifying contributions. This definition shall not include a full-time campaign staff member who spends no more than 20% of his or her time gathering qualifying contributions. "Compensation," for purposes of this chapter, means any economic consideration, including payments on the basis of the number of qualifying contributions gathered. "Compensation" does not include reimbursement of reasonable travel expenses such as expenses for transportation plus a reasonable sum for food and lodging.

¶ **91049.** "Participating candidate" means a candidate for elective state office who qualifies for Clean Money campaign funding. These candidates are eligible to receive Clean Money funding during primary and general election campaign periods.

¶ **91051.** "Party candidate" means a candidate for elective state office who represents a

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political party that has been granted ballot status and holds a primary election to choose its nominee for the general election.

¶ **91053.** "Performance-qualified candidate" means a candidate for elective state office who has either won the primary nomination of an office-qualified party or shown a broad base of support by gathering twice the number of qualifying contributions as is required for an office-qualified candidate. Independent candidates may qualify for funding as performance-qualified candidates.

¶ **91054.** "Person" means an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, ~~and~~ or any other organization or group of persons acting in concert.

¶ **91055.** "Petty cash" means cash amounts of one hundred dollars ($100) or less per day that are not drawn on the Clean Money Debit Card and used to pay expenses of no more than twenty-five dollars ($25) each.

¶ **91057.** "Political party committee" means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.

¶ **91059.** "Primary election campaign period" means the period beginning 120 days before the primary election and ending on the day the primary election results are certified for all candidates for the relevant elective state office.

¶ **91061.** "Qualified candidate" means a candidate seeking nomination for an elective state office from a party that is not an office-qualified party.

¶ **91063.** "Qualifying contribution" means a contribution of five dollars ($5) that is received during the designated qualifying period by a candidate for elective state office seeking to become eligible for Clean Money campaign funding from a legal resident of the district in which the candidate is running for office.

¶ **91065.** "Qualifying period" means the period during which candidates for elective state office are permitted to collect qualifying contributions in order to qualify for Clean Money funding. It begins 270 days before the primary election and ends 90 days before the day of the primary election for qualified party candidates and begins any time after January 1 of the election year and lasts 180 days but in no event ending later than 90 days before the general election for performance-qualified candidates who are running as independent candidates.

¶ **91067.** "Seed money contribution" means a contribution of no more than one hundred dollars ($100) made by a legal resident of California during the exploratory period.

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¶ **91069.** "Small contributor committee" means any committee that meets all of the following criteria:

¶ (a) The committee has been in existence for at least six months.

¶ (b) The committee has received contributions from 100 or more persons.

¶ (c) No one person has contributed to the committee more than two hundred dollars ($200) per calendar year.

¶ (d) The committee makes contributions to five or more candidates for elective state office

¶ (e) The committee is not a candidate-controlled committee pursuant to Section 82016.

Article 4. Clean Money

¶ **91071.** (a) An office-qualified candidate for elective state office qualifies as a participating candidate for the primary election campaign period if the following requirements are met:

¶ (1) The candidate files a declaration with the Commission that the candidate has complied and will comply with all of the requirements of this act, including the requirement that during the exploratory period and the qualifying period the candidate not accept or spend private contributions from any source other than seed money contributions, Clean Money funds, and political party funds as specified in Section 91123.

¶ (2) The candidate meets the following qualifying contribution requirements before the close of the qualifying period:

¶ (A) The office-qualified party candidate collects at least the following number of qualifying contributions:

(i) Seven hundred fifty qualifying contributions for a candidate running for the office of Member of the Assembly.

(ii) One thousand five hundred qualifying contributions for a candidate running for the office of Member of the State Senate.

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(iii) Two thousand qualifying contributions for a candidate running for the office of member of the State Board of Equalization.

(iv) Seven thousand five hundred qualifying contributions for a candidate running for any statewide office other than Governor.

(v) Twenty-five thousand qualifying contributions for a candidate running for the office of Governor.

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¶ (B) No individual legal resident of California shall provide more than one qualifying contribution for each office in which an election is held covering the district in which he or she resides.

¶ (C) Each qualifying contribution shall be acknowledged by a receipt to the contributor, with a copy submitted to the Commission by the candidate. The receipt shall include the contributor's signature, printed name, and home address, the date, and the name of the candidate on whose behalf the contribution is made. In addition, the receipt shall indicate by the contributor's signature that the contributor understands that he or she may contribute a qualifying contribution to only one candidate for each office for which the contributor is eligible to vote, that the purpose of the qualifying contribution is to help the candidate qualify for Clean Money campaign funding, and that the contribution is made without coercion or reimbursement.

¶ (D) A contribution submitted as a qualifying contribution that does not include a signed and fully completed receipt shall not be counted as a qualifying contribution.

¶ (E) All five-dollar ($5) qualifying contributions, whether in the form of cash, check, or money order made out to the candidate's campaign account, shall be deposited by the candidate in the candidate's campaign account.

¶ (F) All qualifying contributions' signed receipts shall be sent to the Commission and shall be accompanied by a check from the candidate's campaign account for the total amount of qualifying contribution funds received for deposit in the Clean Money Fund. This submission shall be accompanied by a signed statement under penalty of perjury from the candidate indicating that all of the information on the qualifying

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contribution receipts is complete and accurate to the best of the candidate's knowledge and that the amount of the enclosed check is equal to the sum of all the five-dollar ($5) qualifying contributions the candidate has received.

¶ (G) The candidate discloses at the end of the qualifying period the total amounts, if any, spent to hire paid circulators to collect qualifying contributions. The candidate shall disclose the information in a report filed with the Commission pursuant to regulations the Commission shall promulgate.

¶ (b) A party candidate for elective state office qualifies as a participating candidate for the general election campaign period if both of the following requirements are met:

¶ (1) The candidate met all of the applicable requirements of a participating candidate in the primary election period and filed a declaration with the Commission that the candidate has fulfilled and will fulfill all of the requirements of a participating candidate as stated in this act.

¶ (2) As a participating candidate from an office-qualified party during the primary election campaign period, the candidate had the highest number of votes of the candidates contesting the primary election from the candidate's respective party and, therefore, won the party's nomination.

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¶ **91073.** A qualified candidate for elective state office shall collect at least half the number of signatures as required for an office-qualified candidate for the same office and may show a greater base of support by collecting double the amount of signatures as required for an office-qualified candidate to become a performance-qualified candidate. The candidate shall also file a declaration with the Commission that the candidate has complied and will comply with all of the requirements of this act. For a candidate who does not run in a primary, the qualifying period begins any time after January 1 of the election year and lasts 180 days, except that it shall end no later than 90 days before the general election. A candidate who is not an office-qualified candidate shall notify the Commission within 24 hours of the day when the candidate has begun collecting qualifying contributions.

¶ **91075.** During the first election that occurs after the effective date of this act, a candidate for elective state office may be certified as a participating candidate, notwithstanding the acceptance of contributions or making of expenditures from private funds before the date of enactment that would, absent this section, disqualify the candidate as a participating candidate, provided that any private funds accepted but not expended before the effective date of this act meet any of the following criteria:

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(a) Are returned to the contributor.

(b) Are held in a special campaign account and used only for retiring a debt from a previous campaign.

(c) Are submitted to the Commission for deposit in the Clean Money Fund.

91077. (a) A participating candidate who accepts any Clean Money benefits during the primary election campaign period shall comply with all of the requirements of this chapter applicable to participating candidates through the general election campaign period whether the candidate continues to accept benefits or not.

(b) An elected state officer who accepted Clean Money benefits in the election for the currently held office shall not accept private contributions from any source and shall not solicit or receive political contributions for any candidate or any political party committee or other political committee, until the first day of the Qualifying Period for the next election for the office currently held. Contributions pursuant to section 91115 are not subject to this requirement.

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91079. (a) During the primary and general election campaign periods, a participating candidate who has voluntarily agreed to participate in, and has become eligible for, Clean Money benefits, shall not accept private contributions from any source other than the candidate's political party as specified in Section 91123. Contributions pursuant to section 91115 are not subject to this requirement.

(b) During the qualifying period and the primary and general election campaign periods, a participating candidate who has voluntarily agreed to participate in, and has become eligible for, Clean Money benefits shall not solicit or receive political contributions for any other candidate or for any political party committee or other committee as defined under Section 82013.

(c) No person shall make a contribution in the name of another person. A participating candidate who knows or reasonably should have known that he or she received a qualifying contribution or a seed money contribution that is not from the person listed on the receipt required by subparagraph (C) of paragraph (2) of subdivision (a) of Section 91071 shall be liable to pay the Commission the entire amount of the inaccurately identified contribution for deposit in the Clean Money fund, in addition to any penalties.

(d) During the primary and general election campaign periods, a participating candidate shall pay for all of the candidate's campaign expenditures, except petty cash expenditures, by means of a "Clean Money Debit Card" issued by the Commission, as authorized under Section 91141.

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¶ (e) Candidates for elective state office shall furnish complete campaign records, including all records of seed money contributions and qualifying contributions, to the Commission at regular filing times. Candidates shall cooperate with any audit or examination by the Commission, the Franchise Tax Board, or any enforcement agency.

¶ **91081.** (a) During an election for an elective state office, each participating candidate shall conduct all campaign financial activities through a single campaign account. Accounts established pursuant to section 91115 are not subject to this requirement.

¶ (b) Notwithstanding Section 85201, a participating candidate may maintain a campaign account other than the campaign account described in subdivision (a) if the other campaign account is for the purpose of retiring a campaign debt that was incurred during a previous election campaign in which the candidate was not a participating candidate.

¶ (c) Contributions for the purposes of retiring a previous campaign debt that are deposited in the "other campaign account" described in subdivision (b) shall not be considered "contributions" to the candidate's current campaign. Contributions for the purpose of retiring debt shall only be raised during the six-month period following the date of the election, unless, for good cause shown, the candidate receives a six-month extension from the Commission.

¶ (d) Participating candidates shall file reports of financial activity related to the current election cycle separately from reports of financial activity related to previous election cycles.

¶ **91083.** (a) Participating candidates shall use their Clean Money funds only for direct campaign purposes.

¶ (b) A participating candidate shall not use Clean Money funds for any of the following:

¶ (1) Costs of legal defense in any campaign law enforcement proceeding under this act.

¶ (2) Indirect campaign purposes, including, but not limited to, the following:

¶ (A) The candidate's personal support or compensation to the candidate or the candidate's family.

¶ (B) The candidate's personal appearance.

¶ (C) Capital assets having a value in excess of five hundred dollars ($500) and useful life extending beyond the end of the current election period determined in accordance with generally accepted accounting principles.

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Notwithstanding this limitation, a participating candidate may purchase computer-related assets provided that each such asset has a value not in excess of $1,000.

(D) A contribution or loan to the campaign committee of another candidate or to a political party committee or other political committee.

(E) An independent expenditure.

(F) A gift in excess of twenty-five dollars ($25) per person.

(G) Any payment or transfer for which compensating value is not received.

(3) Compensation to any individual who receives a salary from the State of California. Administrative and support personnel shall be exempt.

91085. (a) Personal funds contributed by a candidate for elective state office seeking to become eligible as a participating candidate as seed money to his or her campaign, or by adult members of the candidate's family to the candidate, shall not exceed the maximum of one hundred dollars ($100) per contributor.

(b) Personal funds shall not be used to meet the qualifying contribution requirement except for one five-dollar ($5) contribution from the candidate and one five-dollar ($5) contribution from the candidate's spouse.

91087. (a) The only private contributions a candidate for elective state office seeking to become eligible for Clean Money funding shall accept, other than qualifying contributions, contributions pursuant to Section 91115, and limited contributions from the candidate's political party as specified in Section 91123, are seed money contributions contributed by individual legal residents of the State of California residing in the district in which the candidate is running for election prior to the end of the qualifying period.

(b) A seed money contribution shall not exceed one hundred dollars ($100) per donor, and the aggregate amount of seed money contributions accepted by a candidate for elective state office seeking to become eligible for Clean Money funding shall not exceed:

(1) Ten thousand dollars ($10,000) for a candidate running for the office of Member of the Assembly.

(2) Twenty thousand dollars ($20,000) for a candidate running for the office of Member of the State Senate.

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(3) Thirty thousand dollars ($30,000) for a candidate running for the office of member of the State Board of Equalization.

(4) Seventy-five thousand dollars ($75,000) for a candidate running for a statewide office other than Governor.

(5) Two hundred fifty thousand dollars ($250,000) for a candidate running for the office of Governor.

(c) Receipts for seed money contributions under twenty-five dollars ($25) shall include the contributor's signature, printed name, street address, and ZIP Code. Receipts for seed money contributions of twenty-five dollars ($25) or more shall also include the contributor's occupation and name of employer. Contributions shall not be retained if the required disclosure information is not received.

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(d) Seed money shall be spent only during the exploratory and qualifying periods. Seed money shall not be spent during the primary or general election campaign periods. Any unspent seed money shall be turned over to the Commission for deposit in the Clean Money Fund.

(e) Within 72 hours after the close of the qualifying period, candidates seeking to become eligible for Clean Money funding shall do both of the following:

(1) Fully disclose all seed money contributions and expenditures to the Commission.

(2) Turn over to the Commission for deposit in the Clean Money Fund any seed money the candidate has raised during the exploratory period that exceeds the aggregate seed money limit.

91091. Participating candidates in races for elective state office with more than one candidate shall agree to participate in at least one public debate during a contested primary election and two public debates during a contested general election. The debates shall be conducted in accordance with regulations issued by the Fair Political Practices Commission.

91093. (a) No more than five days after a candidate applies for Clean Money benefits, the Commission shall certify that the candidate is or is not eligible. Eligibility may be revoked if the candidate violates the requirements of this act, in which case the candidate shall repay all Clean Money funds.

(b) The candidate's request for certification shall be signed by the candidate and the

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candidate's campaign treasurer under penalty of perjury.

(c) The Commission's determination is final except that it is subject to a prompt judicial review.

(d) The Commission shall provide updated information on its Web site that reflects changes a candidate's status as participating or non-participating candidates within 24 hours of such a change.

Article 5. Clean Money Benefits

91095. (a) Candidates for elective state office who qualify for Clean Money funding for primary and general elections shall:

(1) Receive Clean Money funding from the Commission for each election, the amount of which is specified in Section 91099. This funding may be used to finance any and all campaign expenses during the particular campaign period for which it was allocated consistent with Section 91081.

(2) Receive, if an office-qualified candidate or a performance-qualified candidate showing a broad base of support, additional Clean Money funding to match any excess expenditure amount spent by a nonparticipating candidate, as disclosed pursuant to Section 91107, provided that the dollar value of the excess expenditure amount, combined with the amount spent by any independent expenditure exceeds, the initial amount of Clean Money funding received by the participating candidate.

(3) Receive, if an office-qualified candidate or a performance-qualified candidate showing a broad base of support, additional Clean Money funding to match any excess independent expenditure made in opposition to their candidacies or in support of their opponents' candidacies, as disclosed pursuant to Section 91109, provided that the dollar value of the expenditure, combined with the amount raised or received thus far by any opposing candidate who benefits from the independent expenditure exceeds, the initial amount of Clean Money funding received by the participating candidate.

(b) The maximum aggregate amount of funding a participating office-qualified candidate or a performance-qualified candidate showing a broad base of support shall receive to match independent expenditures and excess expenditures of nonparticipating candidates shall be no more than five times the amount of Clean Money funding allocated to a participating candidate pursuant to Section 91099 for a particular primary or general election campaign period, except that for the office of Governor, the amount shall be no more than four times the amount of Clean Money funding allocated to a participating

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candidate pursuant to Section 91099.

91095.5. (a) Independent expenditures against a participating candidate shall be treated as expenditures of each opposing candidate for the purposes of Section 91095.

(b) Independent expenditures in favor of one or more non-participating opponents of a participating candidate shall be treated as expenditures of those non-participating candidates for the purpose of Section 91095.

(c) Independent expenditures in favor of a participating candidate shall be treated, for every opposing participating candidate, as though the independent expenditures were an expenditure of a nonparticipating opponent, for purpose of Section 91095.

(d) The Commission shall promulgate regulations relating to independent expenditures that reference or depict more than one candidate for the purposes of Section 91095.

91097. (a) A qualified or office-qualified candidate for elective state office shall receive the candidate's Clean Money funding for the primary election campaign period on the date on which the Commission certifies the candidate as a participating candidate. This certification shall take place no later than five days after the candidate has submitted the required number of qualifying contribution receipts, a check for the total amount of qualifying contributions collected, and a declaration stating that the candidate has complied with all other requirements for eligibility as a participating candidate, but no earlier than the beginning of the primary election campaign period.

(b) A qualified or performance-qualified candidate for elective state office shall receive the candidate's Clean Money funding for the general election campaign period within two business days after certification of the primary election results.

(c) A participating candidate for Legislature running in the primary of the dominant party in a one-party dominant district may choose to reallocate a portion of the Clean Money funding amount from the general election period to the primary period. The candidate shall make this choice in a writing submitted to the Commission with the materials specified in subdivision (a) at the close of the qualifying period. The participating candidate who makes such a choice shall receive an additional amount equal to 25 percent of the amount specified for the general election for the appropriate office as set forth in subdivision (b) of Section 91099. The amount a participating candidate who makes such a choice shall receive at the beginning of the general election period shall be reduced by 25 percent. The choice may also affect the amount at which an opposing candidate may be considered to have exceeded the amount of Clean Money funding available to the participating candidate. If a competing participating candidate transfers funds pursuant to this subdivision from the general to the primary election by the close of the qualifying period, any other participating candidates in the same election may transfer

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the same amount of funds from the general to the primary election by notifying the commission in writing within five days of the close of the qualifying period. The Commission shall promulgate regulations that require notification of such transfers to the Commission and to affected candidates.

¶ **91099.** (a) For candidates in a primary election for elective state office or for performance-qualified candidates for elective state office in a special or special runoff election:

¶ (1) The amount of Clean Money funding for an office-qualified party candidate in a primary, special, or special runoff election is:

¶ (A) Two hundred fifty thousand dollars ($250,000) for a candidate running for the office of Member of the Assembly.

¶ (B) Five hundred thousand dollars ($500,000) for a candidate running for the office of Member of the State Senate.

¶ (C) Two hundred fifty thousand dollars ($250,000) for a candidate running for the office of member of the State Board of Equalization.

¶ (D) Two million dollars ($2,000,000) for a candidate running for a statewide office other than Governor.

¶ (E) Ten million dollars ($10,000,000) for a candidate running for Governor.

¶ (2) The amount of Clean Money funding for a performance-qualified candidate in a primary or special election is 20 percent of the amount an office-qualified party candidate running for the same office could receive. The amount of Clean Money funding for a performance-qualified candidate in a special runoff election is 50 percent of the amount an office-qualified candidate running for the same office would receive.

¶ (3) The Clean Money funding amount for a participating candidate in a primary election where no other candidates are running in the same party primary for that seat is 10 percent of the amount provided in a contested primary election.

¶ (b) For candidates for elective state office in a general election:

¶ (1) The amount of Clean Money funding for an office-qualified candidate in a contested general election is:

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(A) Four hundred thousand dollars ($400,000) for a candidate running for the office of Member of the Assembly.

(B) Eight hundred thousand dollars ($800,000) for a candidate running for the office of Member of the State Senate.

(C) Four hundred thousand dollars ($400,000) for a candidate running for the office of member of the State Board of Equalization.

(D) Two million dollars ($2,000,000) for a candidate running for a statewide office other than Governor.

(E) Fifteen million dollars ($15,000,000) for a candidate running for Governor.

(2) The amount of Clean Money funding for a performance-qualified candidate in a contested general election is 50 percent of the amount an office-qualified candidate running for the same office could receive.

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(3) The amount of Clean Money funding for a qualified candidate in a contested general election is 25 percent of the amount an office-qualified candidate running for the same office could receive.

Article 6. Restrictions on Nonparticipating Candidates, Political Parties, and Independent Expenditure Committees

91101. (a) A person, other than a small contributor committee or political party committee, shall not make to any nonparticipating candidate or candidates, and a nonparticipating candidate shall not accept from a person other than a small contributor committee or a political party committee, any contribution totaling more than five hundred dollars ($500) per election, if a candidate for the legislature or for the State Board of Equalization, or more than one thousand dollars ($1,000) if a candidate for statewide office. Contributions pursuant to section 91115 are not subject to this requirement.

(b) The provisions of this section do not apply to a nonparticipating candidate's contributions of personal funds to the candidate's own campaign.

91103. A small contributor committee shall not make to any nonparticipating candidate, and a nonparticipating candidate shall not accept from a small contributor committee, any contribution totaling more than two thousand five hundred dollars ($2,500) per election.

91105. (a) A person shall not make to any independent expenditure committee, and a

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committee shall not accept from a person, contributions totaling more than one thousand dollars ($1,000) per calendar year for the purpose of making expenditures in support of the election or defeat of a candidate, or candidates for elective state office.

(b) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than one thousand dollars ($ 1,000) per calendar year for the purpose of making contributions to any committees, including ballot measure committees, controlled by candidates for elective state office.

(c) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than seven thousand five-hundred dollars ($ 7,500) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective state or for the purpose of making contributions to any committees, including ballot measure committees, controlled by candidates for elective state office. Notwithstanding Section 85312, this limit applies to contributions made to a political party used for the purpose of making expenditures at the behest of a candidate for elective state office for communications to party members related to the candidate's candidacy for elective state office.

(d) Nothing in this chapter limits a nonparticipating candidate for elective state office from transferring contributions received by the candidate in excess of any amount necessary to defray the candidate's expenses for election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

(e) An elected state officer, nonparticipating candidate, legal defense account, political party committee, or independent expenditure committee shall not solicit or accept a contribution from a registered state lobbyist or lobbying firm, or from a state contractor, if the lobbyist or employee or principal of the lobbying firm is registered to lobby, or if the state contractor has present or potential future business with, the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

(f) No committee controlled by a candidate or officeholder, shall make any contribution to any other candidate running for state office or his or her controlled committee.

(g) No person shall contribute in the aggregate more than seven thousand five hundred dollars ($7,500) to all candidates for elective state offices and their controlled committees, political party committees, and any other committees, in any calendar year, for the purpose of making contributions to candidates for elective state office or independent expenditures to support or oppose candidates for elective state office;

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Provided, however, that a person may contribute up to an additional seven thousand five hundred dollars ($7,500) in a calendar year to independent expenditure committees that support or oppose candidates for elective state office.

(h) A controlled committee of a candidate shall not make independent expenditures and shall not make contributions to another committee which makes independent expenditures to support or oppose other candidates.

Article 6.5.

Applicability of limits to special elections and special runoff elections

91106. The contribution and expenditure limits and restrictions of this chapter apply to special elections and apply to special runoff elections. A special election and a special runoff election are separate elections for purposes of the contribution and expenditure provisions set forth in this chapter.

Article 7. Disclosure Requirements

91107. (a) A nonparticipating candidate shall notify the Commission online or electronically on the same day that the candidate spends or incurs expenditures in excess of the initial amount of Clean Money funding allocated to the candidate's Clean Money opponent or opponents pursuant to Section 91099. The notification shall include the excess amount spent or incurred as of that date. Upon receiving notification from a nonparticipating candidate, the Commission shall immediately notify all other candidates in that election.

(b) A nonparticipating candidate that spends or incurs expenditures in excess of the initial amount of Clean Money funding actually received by the candidate's Clean Money opponent or opponents, shall notify the Commission online or electronically within 24 hours each time the candidate's committee makes or incurs cumulative expenditures of five thousand dollars ($5,000) or more in excess of the amount(s).

(c) In the event a nonparticipating candidate fails to timely notify the Commission in accordance with subdivisions (a) and (b), the Commission may make its own determination as to whether excess expenditures have been made or incurred by nonparticipating candidates.

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(d) Upon receiving an excess expenditure notification or determining that an excess expenditure has been made, the Commission shall release additional Clean Money funding to the opposing participating performance-qualified and office-qualified candidates within one business day. The amount released shall be equal to the excess amount spent or incurred by the nonparticipating candidate subject to the limits set forth in Section 91095(b). subdivision (b) of

91107.5. (a) No candidate for elective state office shall expend or contribute more than $25,000 in personal funds in connection with his or her campaign so as to make the total amount contributed from all sources aggregate more than the amount set forth in Section 91099 for the office for which they are running unless and until the conditions in subdivisions (b) and (c) are met.

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(b) Notice of the candidate's intent to so expend or contribute shall be provided online, electronically, by facsimile, or personal delivery, to all opponents and to the Commission within 15 days of the decision to expend or contribute, specifying the amount intended to be expended or contributed.

(c) All personal funds to be expended or contributed by the candidate pursuant to subdivision (a) shall first be deposited in the candidate's campaign contribution checking account at least 15 days before the election. Such deposited funds shall be considered an expenditure made by the candidate and shall trigger matching funds pursuant to Section 91095.

(d) In the event that the candidate contributes or expends more in personal funds than provided by this section, the matching fund limit set forth in Section 91095(b) shall be doubled for all opposing participating candidates. subdivision (b) of

91109. (a) In addition to any other report required by this chapter, a committee, including a political party committee, that makes independent expenditures of one thousand dollars ($1,000) or more during an election cycle to support or oppose a candidate, shall file a report with the Commission disclosing the independent expenditure within 24 hours of the time the independent expenditure is made or incurred. This report shall disclose the same information required by subdivision (b) of Section 84204 and shall be filed online or electronically if the committee is required to file reports pursuant to Section 84605, and by facsimile, personal delivery or by such other means as determined by the Commission for committees that do not file reports electronically.

(b) An expenditure may not be considered independent, and shall be treated as a

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contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure is made, if the expenditure is made under any of the following circumstances:

(1) The expenditure is made with the cooperation of, or in consultation with, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(2) The expenditure is made in concert with, or at the request or suggestion of, the candidate on whose behalf, or for whose benefit, the expenditure is made, or any controlled committee or any agent of the candidate.

(3) The expenditure is made under any arrangement, coordination, or direction with respect to the candidate or the candidate's agent and the person making the expenditure.

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(c) The report to the Commission shall include a signed statement under penalty of perjury by the person or persons making the independent expenditure identifying the candidate or candidates supported or opposed by the independent expenditure, and affirming that the expenditure is independent and not coordinated with a candidate or a political party.

(d) Any committee that fails to file the required report to the Commission or that knowingly provides materially false information in a report filed pursuant to subdivisions (a) or (b), may be fined up to three times the amount of the independent expenditure, in addition to any other remedies provided by this act.

(e) Upon receiving a report that an independent expenditure has been made or incurred, the Commission shall immediately notify all candidates in that election and release additional Clean Money funding, pursuant to Section 91095, within one business day to all participating candidates in that specific primary or general election whom the Commission determines were not beneficiaries of the independent expenditure, subject to the limits in Section 91095(b). subdivision (b) of

91113. (a) In addition to other disclosure provisions contained in this Code, all broadcast and print advertisements paid for by a candidate for elective state office or committee controlled by a candidate for elective state office shall include a disclosure statement indicating that the candidate has approved of the contents of the advertisement.

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(b) The disclosure statement required by subdivision (a) that is included in a broadcast advertisement shall be spoken so as to be clearly audible and understood by the intended public and otherwise appropriately conveyed for the hearing impaired.

(c) The disclosure statement required by subdivision (a) that is included in a print advertisement shall be printed clearly and legibly in no less than 10-point type and in a conspicuous manner as defined by the Commission.

(d) For purposes of this section, "advertisement" means any general or public advertisement which is authorized and paid for by a candidate or committee controlled by a candidate for the purpose of supporting or opposing a candidate for elective state office, but does not include a campaign button smaller than 10 inches in diameter, a bumper sticker smaller than 60 square inches, or other advertisement as determined by regulations of the Commission.

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Article 8. Ballot Access, Recount, Legal Defense, Officeholder, and Inaugural Funds

91115. (a) A candidate for elective state office or elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or elected state officer's expenses in any litigation over ballot access, qualifications or designations, election recounts and contests, or in connection with any legal defense if the candidate or elected state officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney's fees and other related legal costs.

(b) An elected state officer who accepted Clean Money benefits in the election shall receive $50,000 annually from the Clean Money Fund, if a member of the Legislature, or $100,000 annually for all statewide offices to defray officeholder expenses. Any such elected state officer shall not accept private contributions from any source for his or her officeholder account for the currently held office unless such officer raises private contributions for a campaign account in excess of the amounts set forth in Sec. 91087. In the event that such elected officer raises private contributions for a campaign account in excess of the amounts set forth in Sec. 91087, he or she shall no longer receive money for an officeholder account as of the start of the next calendar year and may raise private contributions for an officeholder account pursuant to Section 91115(c).

subdivision (c) of

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(c) An elected state officer who did not accept Clean Money benefits in the election for his or her current office may establish a separate account to defray officeholder expenses that are set forth by the Commission. No funds from this account shall be used for a mass mailing. The aggregate amount contributed to any officeholder account shall not exceed fifty thousand dollars ($50,000) annually for any legislative officer or one hundred thousand ($100,000) for any statewide officer.

(d) A Governor, Lieutenant Governor, or other statewide officer may establish an inaugural account to cover the cost of events, celebrations, gatherings, and communications that take place as part of, or in honor of, the officer's inauguration. No inaugural account may exceed $500,000 cumulatively.

(e) A candidate or officer may receive contributions of up to five hundred dollars ($500) per person per year in the aggregate for accounts in subdivisions (a), (c), and (d). All contributions, whether cash or in-kind, shall be reported in a manner prescribed by the Commission. Contributions to such funds shall not be considered campaign contributions.

(f) A candidate or elected state officer who has established a legal account pursuant to subdivision (a) shall dispose of all leftover funds once the legal dispute is resolved and all expenses are discharged. The candidate or elected state officer shall dispose of the excess funds consistent with for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

(g) An elected state officer who has established an officeholder account pursuant to subdivision (b) shall return to the state Clean Money fund all leftover funds once the officer leaves and all expenses are discharged.

(h) An elected state officer who has established an officeholder account pursuant to subdivision (c) shall dispose of all leftover funds once the officer leaves office and all expenses are discharged. The elected state officer shall dispose of the excess funds consistent with for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

Article 9. Restrictions on Candidates

91117. A candidate for elective state office or any committee controlled by the candidate shall not receive any contributions prior to the beginning of the exploratory period.

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91119. A nonparticipating candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same nonparticipating candidate. Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor shall not exceed the limits set forth in Section 91101, 91103 or 91105.

91121. A nonparticipating candidate may accept a contribution after the date of the election only to the extent that the contribution does not exceed net debts outstanding from the election and the contribution does not otherwise exceed the applicable contribution limit for that election. All debts shall be repaid or written off no later than 90 days after the general election. The Commission may extend this deadline for up to an additional 90 days upon a finding of good cause for the extension based on facts and circumstances presented by the candidate.

91123. Candidates for elective state office may accept monetary or in-kind contributions from political parties provided that the aggregate amount of such contributions from all political party committees combined does not exceed the following amounts:

(a) The aggregate amount of monetary or in kind contributions from all political party committees combined for each participating and non-participating candidate in a primary, special, or special runoff election is:

(1) Twelve thousand five-hundred dollars ($12,500) for a candidate running for the office of Member of the Assembly.

(2) Twenty-five thousand dollars ($25,000) for a candidate running for the office of Member of the State Senate.

(3) Twelve thousand five hundred dollars ($12,500) for a candidate running for the office of member of the State Board of Equalization.

(4) One hundred thousand dollars ($100,000) for a candidate running for a statewide office other than Governor.

(5) Five hundred thousand dollars ($500,000) for a candidate running for

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Governor.

(b) The aggregate amount of monetary or in kind contributions from all political party committees combined for each participating and non-participating candidate in a contested general election is:

(1) Twenty thousand dollars ($20,000) for a candidate running for the office of Member of the Assembly.

(2) Forty thousand dollars ($40,000) for a candidate running for the office of Member of the State Senate.

(3) Twenty thousand dollars ($20,000) for a candidate running for the office of member of the State Board of Equalization.

(4) Two hundred thousand dollars ($200,000) for a candidate running for a statewide office other than Governor.

(5) Seven hundred fifty thousand dollars ($750,000) for a candidate running for Governor.

Such contributions shall not count against the Clean Money funding amounts available to participating candidates and funds may be spent directly by participating candidates without using a Clean Money Debit Card.

Article 10. Voter Pamphlet Statements

91127. The Secretary of State shall designate in the state ballot pamphlet those candidates who have voluntarily agreed to be participating candidates.

91131. (a) A candidate who is a participating candidate may place a statement in the state ballot pamphlet and on any Internet Web site listing of candidates maintained by any government agency including, but not limited to, the Secretary of State, that does not exceed 250 words. The statement shall not make any reference to any opponent of the candidate. The candidate may also provide a list of ten endorsers for placement in the ballot pamphlet. This statement and list of endorsers shall be submitted in accordance

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with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets.

(b) A nonparticipating candidate may pay to place a statement in the appropriate ballot pamphlet or voter information portion of the sample ballot that does not exceed 250 words, and may pay the price to place a list of up to 10 endorsers in the ballot pamphlet. The statement shall not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets. The nonparticipating candidate shall be charged the pro rata cost of printing, handling, translating, and mailing any campaign statement and list of endorsers provided pursuant to this subdivision.

Article 10.5. Voter Education and Outreach

91132. The Secretary of State shall, using the funds provided by Section 91134(a)(3), conduct voter education and outreach efforts throughout the state regarding the public campaign funding system established by this chapter and, specifically, the meaning behind the statements included in the ballot, as provided in Section 13207(a)(2)(A). Such efforts shall include public service announcements in radio, television, or print media that are disseminated in a manner consistent with the language assistance requirements of the Voting Rights Act, 42 U.S.C. Sec. 1973aa-1. Public announcements disseminated by television, radio, or print media must not feature the voice, name, still or video image of the Secretary of State.

Article 11. Appropriations for the Clean Money Fund

91133. A special, dedicated, nonlapsing Clean Money Fund is created in the State Treasury. The Franchise Tax Board shall deposit into the Clean Money Fund fees generated from the following assessments:

(a) an increase of 0.2 in the rate for amounts paid on taxable income as provided in Section 23151(g) of the Revenue and Taxation Code [from 8.84 percent to 9.04 percent];

(b) an increase of 0.2 in the rate for amounts paid on taxable income as provided in Section 23186(b) of the Revenue and Taxation Code [from 10.84 percent to 11.04 percent]; and

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(c) an increase in the tax imposed on passive investment income under Section 23811 of the Revenue and Taxation Code from 1.5 percent to 1.66 percent of annual net passive investment income for corporations with over $50 million in total receipts.

91134.(a) The Franchise Tax Board shall administer the collection of the Clean Money Fees described herein, including any penalties and interest. The Clean Money Fund is established for the following purposes:

(1) Providing public financing for the election campaigns of certified participating candidates during primary and general campaign periods.

(2) Paying for the administrative and enforcement costs of the Commission related to this chapter. The Commission shall annually be appropriated at least three million dollars ($3,000,000), adjusted for cost-of-living changes as provided in Section 82001, to administer this act.

(3) Paying for the voter education and outreach efforts as provided in Section 91132, except that the annual amount of funds available for these efforts shall be no more than five percent (5%) of the amount specified in subdivision (a) for the each of the first two years after implementation of this chapter in which there are elections, and no more than one percent (1%) every year thereafter in which there are elections. Funds unused by the Secretary of State shall revert to the Clean Money Fund, annually.

(b) Funds collected pursuant to this section shall first be collected in the 2007-08 fiscal year and in each subsequent fiscal year.

91135. Other sources of revenue to be deposited in the Clean Money Fund shall include all of the following:

(a) The qualifying contributions required of candidates seeking to become certified as participating candidates and candidates' excess qualifying contributions.

(b) The excess seed money contributions of candidates seeking to become certified as participating candidates.

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(c) Unspent or uncommitted funds shall be returned no later than thirty days following the date of the close of the primary election period or the general election for which they were distributed. The Commission shall promulgate regulations in furtherance of this subdivision.

(d) Fines levied by the Commission against candidates for violation of election laws.

(e) Voluntary donations made directly to the Clean Money Fund.

(f) Any interest generated by the Clean Money Fund.

91136. The amount of money in the Clean Money Fund shall not exceed four times the amount of six dollars ($6.00) times the number of California residents. Any funds that, if deposited in the Clean Money Fund, would cause the balance in the fund to exceed this amount shall be irrevocably transferred to the General Fund.

Article 12. Limits on Contributions to Candidate-Controlled Ballot Measures

§ 91137. Limits on Contributions to Candidate-Controlled Ballot Measure Committees.

(a) A ballot measure committee not controlled by a candidate for elective state office or an elected state officer is not subject to the provisions of this section. A ballot measure committee becomes subject to the provisions of this section once it becomes controlled by one or more candidates for elective state office, as defined in Section 82016. However, a ballot measure committee controlled by an individual who ceases to be a candidate as defined in Government Code Section 82007 is no longer subject to the provisions of this section.

(b) No person shall make a contribution or contributions totaling in excess of ten thousand dollars ($10,000) to any committee that is established for the purpose of supporting or opposing a state or local ballot measure and that is controlled by a candidate for elective state office or an elected state officer. This contribution limit shall apply as an aggregate limit upon all contributions made by any person to all ballot measure committees controlled by the same candidate for elective state office or the same elected state officer, even if those committees are established for the purpose of

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supporting or opposing different state or local ballot measures, and even if one or more of those ballot measure committees are controlled by more than one candidate for elective state office or elected state officers.

(c) A ballot measure committee that is primarily formed to support or oppose a ballot measure or measures and that is controlled by a candidate for elective state office or an elected state officer is subject to the post-election fundraising limitations of Section 85316. A general purpose ballot measure committee is not subject to the post-election fundraising limitations of Government Code Section 85316.

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Article 13. Limits on Contributions or Independent Expenditures by Corporations in Connection with State Candidate Elections

§ 91138. Limits on Contributions or Independent Expenditures by Corporations in Connection with State Candidate Elections

(a) Except as provided in subdivision (c) of this section, and except for direct contributions pursuant to subdivision (a) of section 91101(a), it is unlawful for any national or state bank or for any corporation incorporated under the laws of this or any other state or any foreign country, to make a contribution or expenditure in connection with the election of any candidate for elective state office. It shall likewise be unlawful for any candidate, committee, or other person knowingly to accept or to receive any contribution prohibited by this section, or for any officer or any director of any corporation or of any national or state bank to consent to any contribution or expenditure by the corporation or national or state bank, as the case may be, prohibited by this section.

(b) For purposes of this section, the term "contribution or expenditure" includes a contribution, expenditure or independent expenditure, as those terms are defined in Sections 82015, 82025 and 82031, and also includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value provided to any candidate or committee (including any political party committee) in connection with any election for elective state office, except that nothing in this section shall prohibit (1) a loan of money by a national or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business; or (2) the payment or receipt of interest earnings, stock or other dividends on investments where the interest or dividends are received in accordance with the applicable banking laws and in the ordinary course of business.

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(c) For purposes of this section, the term "contribution or expenditure" shall not include

(1) communications by a bank or corporation to its stockholders and executive or administrative personnel and their immediate families on any subject;

(2) nonpartisan registration and get-out-the-vote campaigns by a bank or corporation aimed at its stockholders and executive or administrative personnel and their immediate families; and

(3) the establishment, administration, and solicitation by a bank or corporation of contributions to a separate segregated fund to be utilized for making political contributions or expenditures, provided that the fund may consist only of voluntary contributions solicited from individuals who are either stockholders, members or employees of the bank or corporation, and their immediate families.

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paragraph (3).

(d) It shall be unlawful for any separate segregated fund established in accordance with subdivision (c)(3) to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other funds required as a condition of employment; or by funds obtained in any commercial transaction. It shall be unlawful for any person soliciting an employee for a contribution to any separate segregated fund (1) to fail to inform ~~such~~ the employee of the political purposes of ~~such~~ the fund at the time of ~~such~~ the solicitation; and (2) to fail to inform ~~such~~ the employee, at the time of ~~such~~ the solicitation, of his or her right to refuse to so contribute without any reprisal.

(e) This section shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of ~~such~~ the trade association and the immediate families of ~~such~~ the stockholders or personnel to the extent that ~~such~~ the solicitation of ~~such~~ the stockholders and personnel, and their immediate families, has been separately and specifically approved by the member corporation involved, and ~~such~~ the member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(f) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(g) The Commission shall promulgate regulations implementing the requirements of this section and governing the administration and solicitation of contributions to separate

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segregated funds established in accordance with subdivision (c)~~(3) of this section~~. The Commission's regulations shall conform to the intent of the voters in adopting this section and shall, to the maximum extent practicable, be consistent with the regulations adopted by the Federal Election Commission interpreting and implementing the comparable provisions of the Federal Election Campaign Act.

Article 14. Limits on Contributions or Expenditures by Corporations in Connection with State Ballot Measure Elections

§ 91139. Limits on Contributions or Expenditures by Corporations in Connection with State Ballot Measure Elections

(a) Except as provided in subdivision (c) of this section, it is unlawful for any national or state bank or for any corporation incorporated under the laws of this or any other state or any foreign country, to make contributions or expenditures to support or oppose the qualification, passage or defeat of a state ballot measure that in the aggregate exceed $10,000 for or against any statewide ballot measure. It shall likewise be unlawful for any candidate, committee, or other person knowingly to accept or to receive any contribution prohibited in excess of the limits established by this section, or for any officer or any director of any corporation or of any national or state bank to consent to any contribution or expenditure by the corporation or national or state bank, as the case may be, prohibited by this section.

(b) For purposes of this section, the term "contribution or expenditure" includes a contribution, expenditure or independent expenditure, as those terms are defined in Sections 82015, 82025 and 82031, and also includes any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value provided to any candidate or committee (including any political party committee) to support or oppose the qualification, passage or defeat of a state ballot measure, except that nothing in this section shall prohibit (1) a loan of money by a national or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, or (2) the payment or receipt of interest earnings, stock or other dividends on investments where the interest or dividends are received in accordance with the applicable banking laws and in the ordinary course of business.

(c) For purposes of this section, the term "contribution or expenditure" shall not include (1) communications by a bank or corporation to its stockholders and executive or administrative personnel and their immediate families on any subject, (2) nonpartisan registration and get-out-the-vote campaigns by a bank or corporation aimed at its

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stockholders and executive or administrative personnel and their immediate families; and or (3) the establishment, administration, and solicitation by a bank or corporation of contributions to a separate segregated fund to be utilized for making political contributions or expenditures, provided that the fund may consist only of voluntary contributions solicited from individuals who are either stockholders, members or employees of the bank or corporation, and their immediate families. shall

paragraph (3) of

(d) It shall be unlawful for any separate segregated fund established in accordance with subdivision (c)(3) to make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisals, or the threat of force, job discrimination, or financial reprisal; or by dues, fees, or other funds required as a condition of employment; or by funds obtained in any commercial transaction. It shall be unlawful for any person soliciting an employee for a contribution to any separate segregated fund (1) to fail to inform such the employee of the political purposes of such the fund at the time of such the solicitation; and (2) to fail to inform such the employee, at the time of such the solicitation, of his or her right to refuse to so contribute without any reprisal.

(e) This section shall not prevent a trade association or a separate segregated fund established by a trade association from soliciting contributions from the stockholders and executive or administrative personnel of the member corporations of ~~such~~ the trade association and the immediate families of ~~such~~ the stockholders or personnel to the extent that ~~such~~ the solicitation of ~~such~~ the stockholders and personnel, and their immediate families, has been separately and specifically approved by the member corporation involved, and ~~such~~ the member corporation does not approve any such solicitation by more than one such trade association in any calendar year.

(f) For purposes of this section, the term "executive or administrative personnel" means individuals employed by a corporation who are paid on a salary, rather than hourly, basis and who have policymaking, managerial, professional, or supervisory responsibilities.

(g) The Commission shall promulgate regulations implementing the requirements of this section and governing the administration and solicitation of contributions to separate segregated funds established in accordance with subdivision (c)(3) ~~of this section~~ paragraph (3) of The Commission's regulations shall conform to the intent of the voters in adopting this section and shall, to the maximum extent practicable, be consistent with the regulations adopted by the Federal Election Commission interpreting and implementing the comparable provisions of the Federal Election Campaign Act.

Article 15. Nonprofit Corporation Exemption

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§ 91140. Nonprofit Corporations Exempt from Prohibitions and Limits on Political Contributions or Expenditures

(a) The prohibitions and limits on contributions or expenditures set forth in Sections 91138 and 91139 shall not apply to a qualified nonprofit corporation that has all of the following characteristics:

(1) It does not qualify as or engage in any of the activities of a business entity, as defined in Section 82005;

(2) It has:

(A) No shareholders or other persons, other than employees and creditors with no ownership interest, affiliated in any way that could allow them to make a claim on the organization's assets or earnings; and

(B) No persons who are offered or who receive any benefit that is a disincentive for them to disassociate themselves with the corporation on the basis of the corporation's position on a political issue.

(3) It:

(A) Was not established by a business entity;

(B) Is not "affiliated" with a business entity within the meaning of Section 150 of the Corporations Code;

(C) Is not composed of members that are business entities or that engage in the activities of a business entity;

(D) Does not directly or indirectly accept donations of anything of value from business entities; and

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subparagraph (D) of

(4) If unable, for good cause, to demonstrate through accounting records that paragraph (3)(D) of this subdivision is satisfied, has a written policy against accepting donations from business entities; and

(5) It is described in 26 U.S.C. § 501(a) and (c).

¶ (b) Whenever a qualified nonprofit corporation solicits donations, the solicitation shall inform potential donors that their donations may be used for political purposes.

¶ (c) Qualified nonprofit corporations possessing all of the characteristics enumerated in subdivision (a) of this section remain subject to all other applicable requirements and limitations of this title, including those provisions requiring disclosure of any contributions or expenditures permitted by this section.

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Article 16. Administration

¶ **91141.** (a) Upon a determination that a candidate has met all the requirements for becoming a participating candidate as provided for in this act, the Commission shall issue to the candidate a card, known as the "Clean Money Debit Card," and a "line of debit" entitling the candidates and members of the candidate's staff to draw Clean Money funds from a Commission account to pay for all campaign costs and expenses up to the amount of Clean Money funding the candidate has received.

¶ (b) Neither a participating candidate nor any other person on behalf of a participating candidate shall pay campaign costs by cash, check, money order, loan, or by any other financial means other than the Clean Money Debit Card, except for contributions received from political party committees in accordance with Section 91123.

¶ (c) Cash amounts of one hundred dollars ($100) or less per day may be drawn on the Clean Money Debit Card and used to pay expenses of no more than twenty-five dollars ($25) each. Records of all such expenditures shall be maintained and reported to the Commission.

¶ **91142.** If the Commission determines that there are insufficient funds in the program to fund adequately all candidates eligible for Clean Money funds, the Commission shall reduce the grants proportionately to all eligible candidates. If the Commission notifies a

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candidate that the Clean Money funds will be reduced and the candidate has not received any Clean Money funds, the candidate may decide to be a nonparticipating candidate. If a candidate has already received Clean Money funds or wishes to start receiving such funds, a candidate who wishes to collect contributions may do so in amounts up to the contribution limits provided for nonparticipating candidates but shall not collect more than the total of Clean Money funds that the candidate was entitled to receive had there been sufficient funds in the program less the amount of Clean Money funds that will be or have been provided. If, at a later point, the Commission determines that adequate funds have become available, candidates, who have not raised private funds, shall receive the funds owed to them.

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¶ **91143.** (a) At the end of the primary election period, a participating candidate who has received funds pursuant to article 5 ~~of this chapter~~ shall return to the fund all funds in the candidate's campaign account above an amount sufficient to pay any unpaid bills for expenditures made during the primary election period and for goods or services directed to the primary election.

¶ (b) At the end of the general election period, a participating candidate shall return to the fund all funds in the candidate's campaign account above an amount sufficient to pay any unpaid bills for expenditures made before the general election and for goods or services directed to the general election.

¶ (c) A participating candidate shall pay all uncontested and unpaid bills referenced in this section no later than thirty days after the primary or general election. A participating candidate shall make monthly reports to the commission concerning the status of the dispute over any contested bills. Any funds in a candidate's campaign account after payment of bills shall be returned promptly to the fund.

¶ (d) If a participating candidate is replaced, and the replacement candidate files an oath with the Secretary of State certifying that he or she shall assume all responsibility for compliance with the provisions of this chapter concerning the current status and ongoing administration of the campaign account, and further certifying that he or she will faithfully comply will all provisions of this chapter applicable the participating candidate status he or she is assuming as a replacement candidate, the campaign account of the participating candidate shall be transferred to the replacement candidate and the commission shall certify the replacement candidate as a participating candidate with the same status, rights and obligations as the replaced candidate. If the replacement candidate does not file such an oath, the campaign account shall be liquidated and all remaining funds returned to the fund.

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Article 17. Cost of Living

91144. The Commission shall adjust the contribution limitations, spending limits, seed money provisions, funding amounts provided and the Clean Money Fund provisions in January of every odd-numbered year to reflect any increase or decrease in the Consumer Price Index and the increase in registered voters. Those adjustments shall be rounded to the nearest ten dollars ($10) for the seed money provisions, one hundred dollars ($100) for the limitations on contributions, and one thousand dollars ($1,000) for the Clean Money provisions.

91145. On or before December 6 of each year ending in one, the commission shall prepare and provide to each Member of the Legislature and to the standing committees in the Assembly and the Senate with jurisdiction over elections a report containing a review and analysis of the functioning of the Clean Money Fund and the commission's recommendations as to whether additional cost of living adjustments, beyond those specified in section 91144 should be made to the spending limits, seed money provisions, funding amounts provided and the Clean Money Fund provisions of this chapter, and suggesting other changes that are advisable to further the purpose of this act. The commission's recommendations shall be based upon an analysis of the disclosures of campaign contributions and expenditures made by non-participating candidates in the preceding decade and other campaign financing information available, and this analysis shall be set forth in detail in the report. Amendments to this chapter made in accordance with the Commission's recommendation may be adopted by a vote of 55% of the Legislature.

Article 18. Enforcement

91146. (a) It is unlawful for participating candidates or their agents to knowingly accept more Clean Money benefits than those to which they are entitled, spend more than the amount of Clean Money funding they have received, or misuse such benefits or Clean Money funding.

(b) Any person, including an individual specified in Section 91115, who knowingly or willfully violates any provision of this chapter is guilty of a misdemeanor. Any person who knowingly or willfully causes any other person to violate any provision of this chapter, or who aids and abets any other person in the violation of any provision of this chapter, shall be liable under the provisions of this article.

(c) Prosecution of violation of any provision of the chapter shall be commenced within

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four years after the date of the violation.

91147. (a) No person convicted of a misdemeanor under this chapter shall act as a lobbyist, state contractor, run for elective office, or be eligible for appointed office or commission appointment for a period of five years following the date of the conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable. Non-candidate persons convicted for violations of this chapter shall be prohibited from receiving compensation for any electioneering activities or from firms that receive compensation for election activities for a period of five years following the date of conviction unless the court at the time of sentencing specifically determines that this provision shall not be applicable.

(b) If the court determines that the violation was intentional and involved an amount that had or could have been expected to have a material effect on the outcome of the election, the candidate may be fined up to twenty-five thousand dollars ($25,000), or imprisoned for up to five (5) years, or both. Any person who is found guilty of any criminal violation of this act shall be sentenced to at a minimum of at least one day and one night in jail.

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(1) If a candidate is convicted of a misdemeanor violation of any provision of this chapter, the court shall make a determination as to whether the violation had a material effect on the outcome of the election. If the court finds such a material effect, or that a participating candidate spent or incurred more than ten percent (10%) above the Clean Money funding the candidate received from the Clean Money Fund, in addition to any fines specified in ~~subsection (b)~~, the candidate shall repay to the Clean Money Fund an amount up to ~~ten (10)~~ 10 times the value of the excess, and:

this subdivision

(A) if ~~such~~ the conviction becomes final before the date of the election, the votes for ~~such~~ the candidate shall not be counted, and the election shall be determined on the basis of the votes cast for the other candidates in that race;

(B) if ~~such~~ the conviction becomes final after the date of the election, and if ~~such~~ the candidate was declared to have been elected, then ~~such~~ the candidate shall not assume office, the office shall be deemed vacant and shall be filled as otherwise provided by law;

(C) if ~~such~~ the conviction becomes final after the candidate has assumed office, then the candidate shall be removed from office, the office shall be deemed vacant and shall be filled as otherwise provided by law; and

(D) the person convicted shall be ineligible to run for any office for a period of five years after the date of ~~such~~ the conviction.

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(2) If a participating candidate spends or incurs more than the Clean Money funding the candidate is given, and if it is determined by a court not to be an amount that had or could have been expected to have had a material effect on the outcome of the election, then the candidate shall repay to the Clean Money Fund an amount equal to the excess.

(c) The same penalties as provided in subdivision (b) of Section 91146 (b) and Section 91147 shall apply for determinations made by the Commission, subject to court review.

SEC~~TION~~ 2. Section 13207 of Article 1, Chapter 3 of Division 13 of the Elections Code is amended to read:

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13207. (a) There shall be printed on the ballot in parallel columns all of the following:

(1) The respective offices.

(2) The names of candidates with sufficient blank spaces to allow the voters to write in names not printed on the ballot.

(A) Underneath the name of each candidate shall state either: "This candidate is a participant in the public campaign funding system." or "This candidate is not a participant in the public campaign funding system."

(B) The Fair Political Practices Commission shall determine which candidates in every election covered by the Chapter 12 (commencing with Section 91015) of the Government Code) are participating or non-participating candidates. The Fair Political Practices Commission shall provide to the Secretary of State the information necessary to satisfy the requirements of ~~subsection (a)~~ this paragraph (2) in a manner that will permit the timely preparation and printing of the ballot. The Secretary of State shall then immediately transmit the information to county election officials.

italic - NO Underscore

(3) Whatever measures have been submitted to the voters.

(b) In the case of a ballot which is intended for use in a party primary and which carries both partisan offices and nonpartisan offices, a vertical solid black line shall

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divide the columns containing partisan offices, on the left, from the columns containing nonpartisan offices, on the right.

(c) The standard width of columns containing partisan and nonpartisan offices shall be three inches, but an elections official may vary the width of these columns up to 10 percent more or less than the three-inch standard. However, the column containing presidential and vice presidential candidates may be as wide as four inches.

(d) Any measures that are to be submitted to the voters shall be printed in one or more parallel columns to the right of the columns containing the names of candidates and shall be of sufficient width to contain the title and summary of each measure. To the right of each title and summary shall be printed, on separate lines, the words "Yes" and "No."

SEC~~TION~~ 3. Section 82016 of the Government Code is amended to read:

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§ 82016. Controlled Committee italic

(a) "Controlled committee" means a committee that is controlled directly or indirectly by a candidate or state measure proponent or that acts jointly with a candidate, controlled committee, or state measure proponent in connection with the making of expenditures. A candidate or state measure proponent controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee.

(b) Notwithstanding subdivision (a), a political party committee, as defined in Section 85205 5/6 ✓ 91057 italic, is not a controlled committee.

(c) For purposes of Section 91137, a candidate shall be deemed to control a ballot measure committee if any of the following conditions are met:

(1) decisions on how the committee's funds are to be expended are effectively directed by or coordinated with the candidate or his or her agent;

(2) the candidate personally solicits contributions to the committee, either telephonically or through direct oral communications with donors; or

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SUBJECT TO COURT ORDERED CHANGES

(3) the candidate appears in broadcast advertisements paid for by the committee at the candidate's behest.

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SECTION 4. Section 82025 of the Government Code is amended to read:

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§ 82025. Expenditure italic

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(a) "Expenditure" means a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes.

(b) "Expenditure" includes any monetary or nonmonetary payment made by any person that is used:

(1) for any communications that expressly advocate the nomination, election or defeat of a clearly identified candidate or candidates, or the qualification, passage or defeat of a clearly identified ballot measure or measures; or

(2) for any broadcast, cable, or satellite communications that (A) refer to a clearly identified candidate for elective state office or to a state ballot measure that has qualified to appear on the ballot, (B) are made within 30 days before a primary election or 60 days before a general, special, or special runoff election for the office sought by the candidate or at which the state ballot measure will be voted on, and (C) can be received by 50,000 or more persons in the electoral jurisdiction in which the candidate or ballot measure will be voted on. A candidate is "clearly identified" within the meaning of this subdivision if the communication states his or her name, makes unambiguous reference to his or her office or status as a candidate, or unambiguously describes him or her in any manner. A state ballot measure is "clearly identified" within the meaning of this subdivision if the communication states a proposition number, official title, or popular name associated with the measure, or if the communication refers to the specific subject matter of the measure and either states or refers to the fact that the measure is before the people for a vote.

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subdivision (b)

(c) Notwithstanding ~~subsections (b)(1) and (b)(2), the term~~ "expenditure" does

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not include the costs for: (A) a communication appearing in a bona fide news story, commentary, or editorial distributed through the facilities of any regularly published newspaper, magazine, periodical of general circulation, or broadcasting station, unless ~~such~~ the facilities are owned or controlled by any political party, committee, or candidate; (B) a communication which constitutes a candidate debate or forum, or ~~which~~ solely promotes such a debate or forum, and is made by or on behalf of the person or entity sponsoring the debate or forum; (C) a communication in a regularly published newsletter or regularly published periodical, whose circulation is limited to an organization's members, employees, shareholders, other affiliated individuals, and those who request or purchase the publication; or (D) any other communications exempted under such regulations as the Commission may promulgate to ensure the appropriate implementation of this section consistent with the requirements of this subdivision.

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(d) "Expenditure" does not include a candidate's use of his or her own money to pay for either a filing fee for a declaration of candidacy or a candidate statement prepared pursuant to Section 13307 of the Elections Code.

(e) An expenditure is made on the date the payment is made or on the date consideration, if any, is received, whichever is earlier.

¶ **SEC~~TION~~ 5.** Section 82031 of the Government Code is amended to read:

¶ **§ 82031.** Independent Expenditure — italic

italic no underscore

¶ "Independent expenditure" means an expenditure, as defined in Section 82025, subdivision (b), made by any person but which is not made to, or at the behest of, or in coordination with the affected candidate or committee.

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italic comma-no underscore

¶ **SECTION 6.** The following sections of the Government Code are repealed:

~~Section 85203, Section 85205, Section 85206, Section 85300, Section 85302, Section 85303, Section 85304, and Section 85305.~~

S/O

~~82031. "Independent expenditure" means an expenditure made by any person~~ in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate or the qualification, passage or defeat of a clearly identified measure, or taken as a whole and in context, unambiguously urges a particular result in an election ~~but which is not made to or at the behest of the affected candidate or committee.~~

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SEC. 6.

A Section 85203 of the Government Code is repealed.

85203. "Small contributor committee" means any committee that meets all of the following criteria:

(a) The committee has been in existence for at least six months.

(b) The committee receives contributions from 100 or more persons.

(c) No one person has contributed to the committee more than two hundred dollars ($200) per calendar year.

(d) The committee makes contributions to five or more candidates.

S/O

~~85204. "Election cycle" for purposes of Sections 85309 and 85500, means the period of time commencing 90 days prior to an election and ending on the date of the election.~~

~~85204.5. With respect to special elections, the following terms have the following meanings:~~

~~(a) "Special election cycle" means the day on which the office becomes vacant until the day of the special election.~~

~~(b) "Special runoff election cycle" means the day after the special election until the day of the special runoff election.~~

(2000 102 DKA)

85205. "Political party committee" means the state central committee or county central committee of an organization that meets the requirements for recognition as a political party pursuant to Section 5100 of the Elections Code.

85206. "Public moneys" has the same meaning as defined in Section 426 of the Penal Code.

S/O

SEC. 6.2.

A Section 85206 of the Government Code is repealed.

SEC. 6.1.

A Section 85205 of the Government Code is repealed.

SEC. 6.3.

A Section 85300 of the Government Code is repealed.

A 85300. No public officer shall expend and no candidate shall accept any public moneys for the purpose of seeking elective office.

S/O

(prop 73 6-7-88 DKA)

SUBJECT TO COURT ORDERED CHANGES

SEC. 6.4.

Section 85302 of the Government Code is repealed.

85302. (a) A small contributor committee may not make to any candidate for elective state office other than a candidate for statewide elective office, and a candidate for elective state office, other than a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than six thousand dollars ($6,000) per election.

(b) Except to a candidate for Governor, a small contributor committee may not make to any candidate for statewide elective office and except for a candidate for Governor, a candidate for statewide elective office may not accept from a small contributor committee, any contribution totaling more than ten thousand dollars ($10,000) per election.

(c) A small contributor committee may not make to any candidate for Governor, and a candidate for governor may not accept from a small contributor committee, any contribution totaling more than twenty thousand dollars ($20,000) per election.

S/O

(2000/102) DKA

SEC. 6.5.

Section 85303 of the Government Code is repealed.

85303. (a) A person may not make to any committee, other than a political party committee, and a committee other than a political party committee may not accept, any contribution totaling more than five thousand dollars ($5,000) per calendar year for the purpose of making contributions to candidates for elective state office.

(b) A person may not make to any political party committee, and a political party committee may not accept, any contribution totaling more than twenty-five thousand dollars ($25,000) per calendar year for the purpose of making contributions for the support or defeat of candidates for elective state office. Notwithstanding Section 85312, this limit applies to contributions made to a political party used for the purpose of making expenditures at the behest of a candidate for elective state office for communications to party members related to the candidate's candidacy for elective state office.

(c) Except as provided in Section 85310, nothing in this chapter shall limit a person's contributions to a committee or political party committee provided the contributions are used for purposes other than making contributions to candidates for elective state office.

(d) Nothing in this chapter limits a candidate for elected state office from transferring contributions received by the candidate in excess of any amount necessary to defray the candidate's expenses for election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

S/O

(2001/241) DKA

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SEC. 6.6.

¶ Section 85304 of the Government Code is repealed.

election related activities or holding office to a political party committee, provided those transferred contributions are used for purposes consistent with paragraph (4) of subdivision (b) of Section 89519.

SEC. 30. Section 85304 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 31. Section 85304 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 32. Section 85304 is added to the Government Code, to read:

85304. (a) A candidate for elective state office or an elected state officer may establish a separate account to defray attorney's fees and other related legal costs incurred for the candidate's or officer's legal defense if the candidate or officer is subject to one or more civil or criminal proceedings or administrative proceedings arising directly out of the conduct of an election campaign, the electoral process, or the performance of the officer's governmental activities and duties. These funds may be used only to defray those attorney fees and other related legal costs.

(b) A candidate may receive contributions to this account that are not subject to the contribution limits set forth in this article. However, all contributions shall be reported in a manner prescribed by the commission.

(c) Once the legal dispute is resolved, the candidate shall dispose of any funds remaining after all expenses associated with the dispute are discharged for one or more of the purposes set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 89519.

S/O

(2000 / 102 NICK)

SEC. 33. Section 85305 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 34. Section 85305 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 35. Section 85305 is added to the Government Code, to read:

85305. A candidate for elective state office or committee controlled by that candidate may not make any contribution to any other candidate for elective state office in excess of the limits set forth in subdivision (a) of Section 85301.

S/O

SEC. 36. Section 85306 of the Government Code, as added by Proposition 73 at the June 7, 1988, statewide primary election, is repealed.

SEC. 37. Section 85306 of the Government Code, as added by Proposition 208 at the November 5, 1996, statewide general election, is repealed.

SEC. 38. Section 85306 is added to the Government Code, to read:

SEC. 6.7.

¶ Section 85305 of the Government Code is repealed.

SUBJECT TO COURT ORDERED CHANGES

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SEC~~TION~~ 5 7. Section 85306 of the Government Code is amended to read:

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§ 85306. Transfer of Funds from One Controlled Committee to Controlled Committee of Same Candidate; Attribution to Specific Contributors; Funds in Possession Before Specified Dates

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~~(a) A candidate may transfer campaign funds from one controlled committee to a controlled committee for elective state office of the same candidate. Contributions transferred shall be attributed to specific contributors using a "last in, first out" or "first in, first out" accounting method, and these attributed contributions when aggregated with all other contributions from the same contributor may not exceed the limits set forth in Section 85301 or 85302.~~

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~~(b) Notwithstanding subdivision (a), a~~ (a) A candidate for elective state office, other than a candidate for statewide elective office, who possesses campaign funds on January 1, 2001, may use those funds to seek elective office without attributing the funds to specific contributors.

italic-no underscore

~~(c) Notwithstanding subdivision (a), a~~ (b) A candidate for statewide elective office who possesses campaign funds on November 6, 2002, may use those funds to seek elective office without attributing the funds to specific contributors.

(c) Notwithstanding Section 91137, a candidate may transfer funds without limitation from one ballot measure committee controlled by the candidate to another ballot measure committee controlled by the same candidate.

SECTION 8. The following sections of the Government Code are repealed:

~~Section 85314, Section 85317, Section 85318, Section 85400, Section 85401,~~ Section 85402, Section 85403, Section 85501, Section 85600, Section 85601, and Section 85702.

SEC. 8.

Section 85314 of the Government Code is repealed.

85314. The contribution limits of this chapter apply to special elections and apply to special runoff elections. A special election and a special runoff election are separate elections for purposes of the contribution and voluntary expenditure limits set forth in this chapter.

S/O (2000/102)

SEC. 8.1.

Section 85317 of the Government Code is repealed.

85317. Notwithstanding subdivision (a) of Section 85306, a candidate for elective state office may carry over contributions raised in connection with one election for elective state office to pay campaign expenditures incurred in connection with a subsequent election for the same elective state office.

S/O (01/241)

SEC. 8.2.

Section 85318 of the Government Code is repealed.

85318. A candidate for elective state office may raise contributions for a general election prior to the primary election, and for a special general election prior to a special primary election, for the same elective state office if the candidate sets aside these contributions and uses these contributions for the general election or special general election. If the candidate for elective state office is defeated in the primary election or special primary election, or otherwise withdraws from the general election or special general election, the general election or special general election funds shall be refunded to the contributors on a pro rata basis less any expenses associated with the raising and administration of general election or special general election contributions. Notwithstanding Section 85201, candidates for elective state office may establish separate campaign contribution accounts for the primary and general elections or special primary and special general elections.

(01/241)

S/O

SUBJECT TO COURT ORDERED CHANGES

SEC. 83.

Section 85400 of the Government Code is repealed.

85400. (a) A candidate for elective state office, other than the Board of Administration of the Public Employees' Retirement System, who voluntarily accepts expenditure limits may not make campaign expenditures in excess of the following:

(1) For an Assembly candidate, four hundred thousand dollars ($400,000) in the primary or special primary election and seven hundred thousand dollars ($700,000) in the general or special general election.

(2) For a Senate candidate, six hundred thousand dollars ($600,000) in the primary or special primary election and nine hundred thousand dollars ($900,000) in the general or special general election.

(3) For a candidate for the State Board of Equalization, one million dollars ($1,000,000) in the primary election and one million five hundred thousand dollars ($1,500,000) in the general election.

(4) For a statewide candidate other than a candidate for Governor or the State Board of Equalization, four million dollars ($4,000,000) in the primary election and six million dollars ($6,000,000) in the general election.

(5) For a candidate for Governor, six million dollars ($6,000,000) in the primary election and ten million dollars ($10,000,000) in the general election.

(b) For purposes of this section, "campaign expenditures" has the same meaning as "election-related activities" as defined in clauses (i) to (vi), inclusive, and clause (viii) of subparagraph (C) of paragraph (2) of subdivision (b) of Section 82015.

(c) A campaign expenditure made by a political party on behalf of a candidate may not be attributed to the limitations on campaign expenditures set forth in this section.

S/O (01/241) pm

SUBJECT TO COURT ORDERED CHANGES

SEC. 8.4.

Section 85401 of the Government Code is repealed.

85401. (a) Each candidate for elective state office shall file a statement of acceptance or rejection of the voluntary expenditure limits set forth in Section 85400 at the time he or she files the statement of intention specified in Section 85200.

(b) A candidate may, until the deadline for filing nomination papers set forth in Section 8020 of the Elections Code, change his or her statement of acceptance or rejection of voluntary expenditure limits provided he or she has not exceeded the voluntary expenditure limits. A candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits more than twice after the candidate's initial filing of the statement of intention for that election and office.

(c) Any candidate for elective state office who declined to accept the voluntary expenditure limits but who nevertheless does not exceed the limits in the primary, special primary, or special election, may file a statement of acceptance of the expenditure limits for a general or special runoff election within 14 days following the primary, special primary, or special election.

(d) Notwithstanding Section 81004.5 or any other provision of this title, a candidate may not change his or her statement of acceptance or rejection of voluntary expenditure limits other than as provided for by this section and Section 85402.

S/O

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SEC. 8.5.

Section 85402 of the Government Code is repealed.

85402. (a) Any candidate for elective state office who has filed a statement accepting the voluntary expenditure limits is not bound by those limits if an opposing candidate contributes personal funds to his or her own campaign in excess of the limits set forth in Section 85400.

(b) The commission shall require by regulation timely notification by candidates for elective state office who make personal contributions to their own campaign.

S/O

(00/102) DKH

85403. Any candidate who files a statement of acceptance pursuant to Section 85401 and makes campaign expenditures in excess of the limits shall be subject to the remedies in Chapter 3 (commencing with Section 83100) and Chapter 11 (commencing with Section 91000).

S/O

SEC. 8.6.

Section 85403 of the Government Code is repealed.

SUBJECT TO COURT ORDERED CHANGES

SEC. 8.7.

A Section 85501 of the Government Code is repealed,

85501. A controlled committee of a candidate may not make independent expenditures and may not contribute funds to another committee for the purpose of making independent expenditures to support or oppose other candidates. S/O

(01/241) DKA

SEC. 8.8.

A Section 85600 of the Government Code is repealed,

85600. The Secretary of State shall designate in the state ballot pamphlet those candidates for statewide elective office, as defined in Section 82053, who have voluntarily agreed to the expenditure limitations set forth in Section 85400. Local elections officers shall designate in the voter information portion of the sample ballot those candidates for State Senate and Assembly who have voluntarily agreed to the expenditure limitations set forth in Section 85400. S/O

~~SEC. 15. Section 85601 of the Government Code is amended to read:~~

(01/241) DKA

85601. (a) A candidate for statewide elective office, as defined in Section 82053, who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the state ballot pamphlet that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with timeframes and procedures set forth by the Secretary of State for the preparation of the state ballot pamphlets.

(b) Notwithstanding subdivision (e) of Section 88001 of this code or subdivision (e) of Section 9084 of the Elections Code, on and after November 6, 2002, the Secretary of State may not include in the state ballot pamphlet a statement from a candidate who has not voluntarily agreed to the expenditure limitations set forth in Section 85400.

(c) A candidate for State Senate or Assembly who accepts the voluntary expenditure limits set forth in Section 85400 may purchase the space to place a statement in the voter information portion of the sample ballot that does not exceed 250 words. The statement may not make any reference to any opponent of the candidate. The statement shall be submitted in accordance with the timeframes and procedures set forth in the Elections Code for the preparation of the voter information portion of the sample ballot. S/O

SEC. 8.9.

A Section 85601 of the Government Code is repealed.

SUBJECT TO COURT ORDERED CHANGES

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SEC. 8.10.

Section 85702 of the Government Code is repealed.

85702. An elected state officer or candidate for elected state office may not accept a contribution from a lobbyist, and a lobbyist may not make a contribution to an elected state officer or candidate for elected state office, if that lobbyist is registered to lobby the governmental agency for which the candidate is seeking election or the governmental agency of the elected state officer.

S/O

(00/102 DKA)

SUBJECT TO COURT ORDERED CHANGES

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¶ Section 23151 of the Revenue and Taxation Code is amended to read:

¶ SEC~~TION~~ 9. Article 2, Chapter 2 of Part 11 of Division 2 of the Revenue and Taxation Code Sections 23151, 23181, 23183, 23501, and 23811 are amended to read:
of the Revenue and Taxation Code

¶ § 23151. Imposition of privilege tax; Rates — italic

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DKa

(a) With the exception of banks and financial corporations, every corporation doing business within the limits of this state and not expressly exempted from taxation by the provisions of the Constitution of this state or by this part, shall annually pay to the state, for the privilege of exercising its corporate franchises within this state, a tax according to or measured by its net income, to be computed at the rate of 7.6 percent upon the basis of its net income for the next preceding income year, or if greater, the minimum tax specified in Section 23153.

(b) For calendar or fiscal years ending after June 30, 1973, the rate of tax shall be 9 percent instead of 7.6 percent as provided by subdivision (a).

(c) For calendar or fiscal years ending in 1980 to 1986, inclusive, the rate of tax shall be 9.6 percent.

(d) For calendar or fiscal years ending in 1987 to 1996, inclusive, and for any income year beginning before January 1, 1997, the tax rate shall be 9.3 percent.

(e) For any income year beginning on or after January 1, 1997, the tax rate shall be 8.84 percent. The change in rate provided in this subdivision shall be made without proration otherwise required by Section 24251.

(f)(1) For the first taxable year beginning on or after January 1, 2000, the tax imposed under this section shall be the sum of both of the following:

(A) A tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net income for the first taxable year beginning on or after January 1, 2000, but not less than the minimum tax specified in Section 23153.

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(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2000, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate of 8.84 percent upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

¶ (g)(1) For the first taxable year beginning on or after January 1, 2007, the tax imposed under this section shall be the sum of both of the following:

¶ (A) A tax according to or measured by net income, to be computed at the rate of 9.04 percent upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

¶ (B) A tax according to or measured by net income, to be computed at the rate of 9.04 percent upon the basis of the net income for the first taxable year beginning on or after January 1, 2007, but not less than the minimum tax specified in Section 23153.

¶ (2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2007, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate of 9.04 percent upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

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SEC. 9.1.

¶ Section 23181 of the Revenue and Taxation Code is amended to read:

¶ § 23181. Annual tax on banks - italic

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(a) Except as otherwise provided herein, an annual tax is hereby imposed upon every bank doing business within the limits of this state according to or measured by its net income, upon the basis of its net income for the next preceding income year at the rate provided under Section 23186.

(b) If a bank commences to do business and ceases doing business in the same taxable year, the tax for such taxable year shall be according to or measured by its net income for such year, at the rate provided under Section 23186.

(c) With respect to a bank, other than a bank described in subdivision (b), which ceases doing business after December 31, 1972, the tax for the taxable year of cessation shall be:

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(1) According to or measured by its net income for the next preceding income year, to be computed at the rate prescribed in Section 23186, plus

(2) According to or measured by its net income for the income year during which the bank ceased doing business, to be computed at the rate prescribed in Section 23186.

(d) In the case of a bank which ceased doing business before January 1, 1973, but dissolves or withdraws on such date or thereafter, the tax for the taxable year of dissolution or withdrawal shall be according to or measured by its net income for the income year during which the bank ceased doing business, unless such income has previously been included in the measure of tax for any taxable year, to be computed at the rate prescribed under Section 23186 for the taxable year of dissolution or withdrawal.

(e) Commencing with income years ending in 1980, every bank shall pay to the state a minimum tax (determined in accordance with Section 23153) or the measured tax imposed on its income, whichever is greater.

(f)(1) For the first taxable year beginning on or after January 1, 2000, the tax imposed under this section shall be the sum of both of the following:

(A) A tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for the first taxable year beginning on or after January 1, 2000, but not less than the minimum tax specified in Section 23153.

(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2000, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

<u>(g)(1) For the first taxable year beginning on or after January 1, 2007, the tax imposed under this section shall be the sum of both of the following:</u>

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SUBJECT TO COURT ORDERED CHANGES

(A) A tax according to or measured by net income, to be computed at the rate of 11.04 percent upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate of 11.04 percent upon the basis of the net income for the first taxable year beginning on or after January 1, 2007, but not less than the minimum tax specified in Section 23153.

(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2007, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate of 11.04 percent upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

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SEC. 9.2.

Section 23183 of the Revenue and Taxation Code is amended to read:

§ 23183. Financial corporations; Annual tax; Measurement by income; Rate

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(a) For taxable years beginning before January 1, 2000, an annual tax is hereby imposed upon every financial corporation doing business within the limits of this state and taxable under the provisions of Section 27 of Article XIII of the Constitution of this state, for the privilege of exercising its corporate franchises within this state, according to or measured by its net income, upon the basis of its net income for the next preceding income year at the rate provided under Section 23186.

(b) For purposes of this article, the term "financial corporation" does not include any corporation, including a wholly owned subsidiary of a bank or bank holding company, if the principal business activity of such entity consists of leasing tangible personal property.

(c)(1) For the first taxable year beginning on or after January 1, 2000, the tax imposed under this section shall be the sum of both of the following:

(A) A tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for the first taxable year beginning on or after January 1, 2000, but not less than the minimum tax specified in Section 23153.

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(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2000, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate provided under Section 23186 upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

(d)(1) For the first taxable year beginning on or after January 1, 2007, the tax imposed under this section shall be the sum of both of the following:

(A) A tax according to or measured by net income, to be computed at the rate of 11.04 percent upon the basis of the net income for the next preceding income year, but not less than the minimum tax specified in Section 23153.

(B) A tax according to or measured by net income, to be computed at the rate of 11.04 percent upon the basis of the net income for the first taxable year beginning on or after January 1, 2007, but not less than the minimum tax specified in Section 23153.

italic - no underscore

SEC. 913.

(2) Except as provided in paragraph (1), for taxable years beginning on or after January 1, 2007, the tax imposed under this section shall be a tax according to or measured by net income, to be computed at the rate of 11.04 percent upon the basis of the net income for that taxable year, but not less than the minimum tax specified in Section 23153.

¶ Section 23501 of the Revenue and Taxation Code is amended to read:

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¶ § 23501. Annual tax imposed; Rates ital

(a) There shall be imposed upon every corporation, other than a bank, for each taxable year, a tax at the rate of 7.6 percent upon its net income derived from sources within this state on or after January 1, 1937, other than income for any period for which the corporation is subject to taxation under Chapter 2 (commencing with Section 23101), according to or measured by its net income.

(b) For calendar or fiscal years ending after June 30, 1973, the rate of tax shall be 9 percent instead of 7.6 percent as provided by subdivision (a).

(c) For calendar or fiscal years ending after December 31, 1979, the rate of tax shall be the rate specified for those years by Section 23151.

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(d) For calendar or fiscal years ending after December 31, 2006, the rate of tax shall be the rate specified for those years by Section 23151. italic - no underscore

SEC. 9.4. ¶ Section 23811 of the Revenue and Taxation Code is amended to read:

¶ § 23811. Tax on passive investment income attributable to California sources italic

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Except as otherwise provided in this section, there is hereby imposed a tax on passive investment income attributable to California sources, determined in accordance with the provisions of *Section 1375 of the Internal Revenue Code*, relating to tax imposed on passive investment income, as modified by this section. For taxable years beginning on or after January 1, 2007, the tax imposed on passive investment income shall be increased from 1.5 percent to 1.66 percent of taxable net passive investment income for the next preceding income year for corporations with over $50 million dollars in total receipts. italic - no underscore

(a) The tax imposed under this section may not be imposed on an "S corporation" that has no excess net passive income for federal income tax purposes determined in accordance with *Section 1375 of the Internal Revenue Code*. Roman

(b)(1) The rate of tax shall be equal to the rate of tax imposed under Section 23151 in lieu of *Section 11(b) of the Internal Revenue Code*. Roman

(2) In the case of an "S corporation" that is also a financial corporation, the rate of tax specified in paragraph (1) shall be increased by the excess of the rate imposed under Section 23183 over the rate imposed under Section 23151.

Roman

(c) *Section 1375(c)(1) of the Internal Revenue Code*, relating to credits, is modified to provide that the tax imposed under subdivision (a) may not be reduced by any credits allowed under this part.

Roman

(d) The term "subchapter C earnings and profits" or "accumulated earnings and profits" as used in *Section 1375 of the Internal Revenue Code* shall mean the "subchapter C earnings and profits" of the corporation attributable to California sources determined under this part, modified as provided in subdivision (e).

(e)(1) In the case of a corporation that is an "S corporation" for purposes of this part for its first taxable year for which it has in effect a valid federal S election, there shall be allowed as a deduction in determining that corporation's "subchapter C earnings and profits" at the close of any taxable year the amount of any consent dividend (as provided

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in paragraph (2)) paid after the close of that taxable year.

(2) In the event there is a determination that a corporation described in paragraph (1) has "subchapter C earnings and profits" at the close of any taxable year, that corporation shall be entitled to distribute a consent dividend to its shareholders. The amount of the consent dividend may not exceed the difference between the corporation's "subchapter C earnings and profits" determined under subdivision (d) at the close of the taxable year with respect to which the determination is made and the corporation's "subchapter C earnings and profits" for federal income tax purposes at the same date. A consent dividend must be paid within 90 days of the date of the determination that the corporation has "subchapter C earnings and profits." For this purpose, the date of a determination means the effective date of a closing agreement pursuant to Section 19441, the date an assessment of tax imposed by this section becomes final, or the date of execution by the corporation of an agreement with the Franchise Tax Board relating to liability for the tax imposed by this section. For purposes of Part 10 (commencing with Section 17001), Part 10.2 (commencing with Section 18401), and this part, a corporation must make the election provided in *Section 1368(e)(3) of the Internal Revenue Code*. Roman

(3) If a corporation distributes a consent dividend, it shall claim the deduction provided in paragraph (1) by filing a claim therefor with the Franchise Tax Board within 120 days of the date of the determination specified in paragraph (2).

(4) The collection of tax imposed by this section from a corporation described in paragraph (2) shall be stayed for 120 days after the date of the determination specified in paragraph (2). If a claim is filed pursuant to paragraph (3), collection of that tax shall be further stayed until the date the claim is acted upon by the Franchise Tax Board.

(5) If a claim is filed pursuant to paragraph (3), the running of the statute of limitations on the making of assessments and actions for collection of the tax imposed by this section shall be suspended for a period of two years after the date of the determination specified in paragraph (2).

¶ **SEC~~TION~~ 10.** Section 24586 is added to ~~Chapter 11.7 of Part 11 of Division 2 of~~ the Revenue and Taxation Code, to read

¶ **24586.** (a) The Franchise Tax Board shall annually determine the total amount of the fees generated by increases in the tax rates for tax years beginning January 1, 2007, and thereafter pursuant to Revenue and Taxation Code Sections 23151, 23181, 23183, 23501, and 23811, ~~as amended~~, and notify the Controller of that amount. italic

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(b) The Controller shall transfer the amount determined under subdivision (a), less the direct, actual costs of the Franchise Tax Board and the Controller for the collection and administration of funds under this article, to the California Clean Money Fund, established pursuant to Section 91133 of the Government Code, for use in funding clean and fair elections for non-federal statewide and state legislative elections. Upon appropriation by the Legislature, the Controller shall transfer the amount of reimbursement for direct actual costs incurred by the Franchise Tax Board and the Office of the Controller in the administration of this fund.

(c) All funds deposited in the California Clean Money Fund, shall be allocated in accordance with Section 91133 of the Government Code, to the Fair Practices Political Commission for disbursement for the purposes and in the manner described in Section 91133 of the Government Code.

(d) This section shall remain in effect so long as Chapter 12 (commencing with Section 91015) of Title 9 of the Government Code, ~~commencing with Section 91013~~ also known as the California Clean Money and Fair Elections Act of 2006, requires the establishment and maintenance of the California Clean Money Fund.

SEC~~TION~~ 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that maybe incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC~~TION~~ 12. This chapter shall be deemed to amend the Political Reform Act of 1974 as amended and all of its provisions that do not conflict with this chapter shall apply to the provisions of this chapter.

SEC~~TION~~ 13. Severability

(a) The provisions of this Act are severable. If any provision or portion of provision of this Act or the application of any provision of this Act to any person or circumstance is held to be invalid by a court of competent jurisdiction, that invalidity shall not affect other provisions or applications of the Act that can be given effect without the invalid provision or application.

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(b) In adopting this measure, the People specifically declare that the provision of this Act ~~enacting Government Code~~ Section 91139 shall be severable from the remainder of this Act, and the People specifically declare their desire and intent to enact the remainder of this Act even if that provision were not to be given full or partial effect. The People recognize that a Montana law prohibiting corporate contributions or expenditures in connection with a ballot measure election was invalidated in 2000 by a divided panel of the Ninth Circuit Court of Appeals in *Montana Chamber of Commerce v. Argenbright*, but believe that the majority opinion in that case incorrectly interpreted relevant decisions of the United States Supreme Court in this area and that more recent decisions of the Supreme Court support the People's rationale for limiting corporate campaign spending in order to eliminate the distorting effects of corporate wealth on the electoral process. Moreover, the People are adopting the prohibitions in this Act based upon an evidentiary record and history of California ballot measure elections that compellingly demonstrates the need for the narrowly tailored restrictions contained herein.

SEC~~TION~~ 14. Construction and Amendment

This Act shall be broadly construed to accomplish its purposes. This Act may be amended to further its purposes by statute, passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring and signed by the Governor, if at least 12 days prior to passage in each house the bill in its final form has been delivered to the California Fair Political Practices Commission for distribution to the news media and to every person who has requested the Commission to send copies of such bills to him or her. Any such amendment must be consistent with the purposes and must further the intent of this Act. Notwithstanding this provision, amendments to adjust for changes in the cost of living may be made pursuant to section 91145.

SEC~~TION~~ 15. Effective Date

This Act shall become effective immediately upon its approval by the voters and shall apply to all elections held on or after January 1, 2007.

SEC~~TION~~ 16. Conflicting Ballot Measures

(a) If a conflict exists between the provisions of this measure and the provisions of any other measure approved by the voters at the same election, the provisions of this measure shall take effect except to the extent that they are in direct and irreconcilable conflict with the provisions of such other measure and the other measure receives a greater number of

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affirmative votes.

(b) If any provisions of this measure are superseded by the provisions of any other conflicting ballot measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting ballot measure is subsequently held to be invalid, the provisions of this measure shall be self-executing and shall be given full force of law.

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TEXT OF PROPOSITION 90

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PROP. 40

#1204

This initiative measure is submitted to the people in accordance with the provisions of Article II, Section 8 of the California Constitution.

This initiative measure expressly amends the California Constitution by ~~adding sections thereto~~; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

amending a section thereof

PROPOSED LAW

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SA2005RF0146

SECTION

Section 1. STATEMENT OF FINDINGS

(a) The California Constitution provides that no person shall be deprived of property without due process of law and allows government to take or damage private property only for a public use and only after payment to the property owner of just compensation.

(b) Despite these constitutional protections, state and local governments have undermined private property rights through an excessive use of eminent domain power and the regulation of private property for purposes unrelated to public health and safety.

(c) Neither the federal nor the California courts have protected the full scope of private property rights found in the state constitution. The courts have allowed local governments to exercise eminent domain powers to advance private economic interests in the face of protests from affected homeowners and neighborhood groups. The courts have not required government to pay compensation to property owners when enacting statutes, charter provisions, ordinances, resolutions, laws, rules or regulations not related to public health and safety that reduce the value of private property.

(d) As currently structured, the judicial process in California available to property owners to pursue property rights claims is cumbersome and costly.

SEC.

Section 2. STATEMENT OF PURPOSE

(a) The power of eminent domain available to government in California shall be limited to projects of public use. Examples of public use projects include, but are not limited to, road construction, the creation of public parks, the creation of public facilities, land-use planning, property zoning, and actions to preserve the public health and safety.

(b) Public use projects that the government assigns, contracts or otherwise arranges for private entities to perform shall retain the power of eminent domain. Examples of public use projects that private entities perform include, but are not limited to, the construction and operation of private toll roads and privately-owned prison facilities.

(c) Whenever government takes or damages private property for a public use, the owner of any affected property shall receive just compensation for the property taken or damaged. Just compensation shall be set at fair market value for property taken and diminution of fair market value for property damaged. Whenever a property owner and the government cannot agree on fair compensation, the California courts shall provide through a jury trial a fair and timely process for the settlement of disputes.

(d) This constitutional amendment shall apply prospectively. Its terms shall apply to any eminent domain proceeding brought by a public agency not yet subject to a final adjudication. No statute, charter provision, ordinance, resolution, law, rule or regulation in effect on the date of enactment that results or has resulted in a substantial loss to the value of private property shall be subject to the new provisions of Section 19 of Article 1.

(e) Therefore, the people of the state of California hereby enact "The Protect Our Homes Act."

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Printer - set underscored material in italic type without underscore.

SEC

Section 3.

AMENDMENT TO THE CALIFORNIA CONSTITUTION

Section 19 of Article I of the state constitution is amended to read:

California

SEC. 19. (a)(1) Private property may be taken or damaged only for a stated public use and only when just compensation, ascertained by a jury unless waived, has first been paid to, or into court for, the owner. Private property may not be taken or damaged for private use.

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(2) Property taken by eminent domain shall be owned and occupied by the condemnor, or another governmental agency utilizing the property for the stated public use by agreement with the condemnor, or may be leased to entities that are regulated by the Public Utilities Commission or any other entity that the government assigns, contracts or arranges with to perform a public use project. All property that is taken by eminent domain shall be used only for the stated public use.

(3) If any property taken through eminent domain after the effective date of this subdivision ceases to be used for the stated public use, the former owner of the property or a beneficiary or an heir, if a beneficiary or heir has been designated for this purpose, shall have the right to reacquire the property for the fair market value of the property before the property may be otherwise sold or transferred. Notwithstanding subdivision (a) of Section 2 of Article XIII A, upon reacquisition the property shall be appraised by the assessor for purposes of property taxation at its base year value, with any authorized adjustments, as had been last determined in accordance with Article XIII A at the time the property was acquired by the condemnor.

(4) The Legislature may provide for possession by the condemnor following commencement of eminent domain proceedings upon deposit in court and prompt release to the owner of money determined by the court to be the probable amount of just compensation.

(b) For purposes of applying this section:

(1) "Public use" shall have a distinct and more narrow meaning than the term "public purpose" its limiting effect prohibits takings expected to result in transfers to non-governmental owners on economic development or tax revenue enhancement grounds, or for any other actual uses that are not public in fact, even though these uses may serve otherwise legitimate public purposes.

(2) Public use shall not include the direct or indirect transfer of any possessory interest in property taken in an eminent domain proceeding from one private party to another private party unless that transfer proceeds pursuant to a government assignment, contract or arrangement with a private entity whereby the private entity performs a public use project. In all eminent domain actions, the government shall have the burden to prove public use.

(3) Unpublished eminent domain judicial opinions or orders shall be null and void.

(4) In all eminent domain actions, prior to the government's occupancy, a property owner shall be given copies of all appraisals by the government and shall be entitled, at the property owner's election, to a separate and distinct determination by a superior court jury, as to whether the taking is actually for a public use.

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(5) If a public use is determined, the taken or damaged property shall be valued at its highest and best use without considering any future dedication requirements imposed by the government. If private property is taken for any proprietary governmental purpose, then the property shall be valued at the use to which the government intends to put the property, if such use results in a higher value for the land taken.

(6) In all eminent domain actions, "just compensation" shall be defined as that sum of money necessary to place the property owner in the same position monetarily, without any governmental offsets, as if the property had never been taken. "Just compensation" shall include, but is not limited to, compounded interest and all reasonable costs and expenses actually incurred.

(7) In all eminent domain actions, "fair market value" shall be defined as the highest price the property would bring on the open market.

(8) Except when taken to protect public health and safety, "damage" to private property includes government actions that result in substantial economic loss to private property. Examples of substantial economic loss include, but are not limited to, the downzoning of private property, the elimination of any access to private property, and limitations on the use of private air space. "Government action" shall mean any statute, charter provision, ordinance, resolution, law, rule or regulation.

(9) A property owner shall not be liable to the government for attorney fees or costs in any eminent domain action.

(10) For all provisions contained in this section, "government" shall be defined as the State of California, its political subdivisions, agencies, any public or private agent acting on their behalf, and any public or private entity that has the power of eminent domain.

(c) Nothing in this section shall prohibit the California Public Utilities Commission from regulating public utility rates.

(d) Nothing in this section shall restrict administrative powers to take or damage private property under a declared state of emergency.

(e) Nothing in this section shall prohibit the use of condemnation powers to abate nuisances such as blight, obscenity, pornography, hazardous substances or environmental conditions provided those condemnations are limited to abatement of specific conditions on specific parcels.

~~Section~~ SEC. 4. IMPLEMENTATION AND AMENDMENT

This section shall be self-executing. The Legislature may adopt laws to further the purposes of this section and aid in its implementation. No amendment to this section may be made except by a vote of the people pursuant to Article II or Article XVIII of the California Constitution.

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Section 5. SEVERABILITY

The provisions of this section are severable. If any provision of this section or its application is held invalid, that finding shall not affect other provisions or applications that can be given effect without the invalid provision or application.

Section 6. EFFECTIVE DATE

This section shall become effective on the day following the election pursuant to section 10(a) of Article II.

The provisions of this section shall apply immediately to any eminent domain proceeding by a public agency in which there has been no final adjudication.

Other than eminent domain powers, the provisions added to this section shall not apply to any statute, charter provision, ordinance, resolution, law, rule or regulation in effect on the date of enactment that results in substantial economic loss to private property. Any statute, charter provision, ordinance, resolution, law, rule or regulation in effect on the date of enactment that is amended after the date of enactment shall continue to be exempt from the provisions added to this section provided that the amendment both serves to promote the original policy of the statute, charter provision, ordinance, resolution, law, rule or regulation and does not significantly broaden the scope of application of the statute, charter provision, ordinance, resolution, law, rule or regulation being amended. The governmental entity making the amendment shall make a declaration contemporaneously with enactment of the amendment that the amendment promotes the original policy of the statute, charter provision, ordinance, resolution, law, rule or regulation and does not significantly broaden its scope of application. The question of whether an amendment significantly broadens the scope of application is subject to judicial review.

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