California General Election Tuesday November 8, 2016

Polls Are Open From 7:00 a.m. to 8:00 p.m. on Election Day!

★ ★ ★ ★ ★ OFFICIAL VOTER INFORMATION GUIDE ★ ★ ★ ★ ★

Certificate of Correctness

I, Alex Padilla, Secretary of State of the State of California, do hereby certify that the measures included herein will be submitted to the electors of the State of California at the General Election to be held throughout the State on November 8, 2016, and that this guide has been correctly prepared in accordance with the law. Witness my hand and the Great Seal of the State in Sacramento, California, this 15th day of August, 2016.

Alex Padilla, Secretary of State

VOTER BILL OF RIGHTS

YOU HAVE THE FOLLOWING RIGHTS:

1. **The right to vote if you are a registered voter.** You are eligible to vote if you are:
   - a U.S. citizen living in California
   - at least 18 years old
   - registered where you currently live
   - not in prison or on parole for a felony

2. **The right to vote if you are a registered voter even if your name is not on the list.** You will vote using a provisional ballot. Your vote will be counted if elections officials determine that you are eligible to vote.

3. **The right to vote if you are still in line when the polls close.**

4. **The right to cast a secret ballot** without anyone bothering you or telling you how to vote.

5. **The right to get a new ballot if you have made a mistake,** if you have not already cast your ballot. You can:

   Ask an elections official at a polling place for a new ballot; or

   Exchange your vote-by-mail ballot for a new one at an elections office, or at your polling place; or

   Vote using a provisional ballot, if you do not have your original vote-by-mail ballot.

6. **The right to get help casting your ballot** from anyone you choose, except from your employer or union representative.

7. **The right to drop off your completed vote-by-mail ballot at any polling place** in the county where you are registered to vote.

8. **The right to get election materials in a language other than English** if enough people in your voting precinct speak that language.

9. **The right to ask questions to elections officials about election procedures** and watch the election process. If the person you ask cannot answer your questions, they must send you to the right person for an answer. If you are disruptive, they can stop answering you.

10. **The right to report any illegal or fraudulent election activity** to an elections official or the Secretary of State's office.

    On the web at **www.sos.ca.gov**

    By phone at **(800) 345-VOTE (8683)**

    By email at **elections@sos.ca.gov**

IF YOU BELIEVE YOU HAVE BEEN DENIED ANY OF THESE RIGHTS, CALL THE SECRETARY OF STATE'S CONFIDENTIAL TOLL-FREE VOTER HOTLINE AT **(800) 345-VOTE (8683).**

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Assistance for Voters with Disabilities

State and federal laws require polling places to be physically accessible to voters with disabilities. County elections officials inspect each site and often make temporary modifications for Election Day. Every person who works in a polling place is trained in election laws and voter rights, including the need to make reasonable modifications of policies and procedures to ensure equal access.

State and federal laws require that all voters be able to cast their ballots privately and independently. Each polling place must have at least one voting machine that allows all voters, including those who are blind or visually impaired, to cast a ballot without assistance. The voting machine permits voters to verify their vote choices and, if there is an error, allows voters to correct those choices before submitting their ballot.

Check your sample ballot

Your county sample ballot booklet will:

- Describe how persons with disabilities can vote privately and independently
- Display a wheelchair symbol if your polling place is accessible to voters with disabilities

At the polling place

If you need help marking your ballot, you may choose up to two people to help you. This person cannot be:

- Your employer or anyone who works for your employer
- Your labor union leader or anyone who works for your labor union

Curbside voting allows you to park as close as possible to the voting area. Elections officials will bring you a roster to sign, a ballot, and any other voting materials you may need, whether you are actually at a curb or in a car.

Contact your county elections office to see if curbside voting is available at your polling place.

Voter Registration

If you have already registered to vote, you do not need to reregister ***unless*** you change your name, home address, mailing address or if you want to change or select a political party.

You can register to vote online at *RegisterToVote.ca.gov*. Or call the Secretary of State's *free* Voter Hotline at (800) 345-VOTE (8683) to get a form mailed to you.

Voter registration forms can be found at most post offices, libraries, city and county government offices, county elections offices, and the California Secretary of State's Office.

Voter Registration Privacy Information

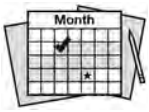
Safe at Home Confidential Voter Registration Program: Certain voters facing life-threatening (i.e. domestic violence, stalking victims) situations may qualify for confidential voter status. For more information, contact the Secretary of State's Safe at Home program toll-free at (877) 322-5227 or visit *http://www.sos.ca.gov/registries/safe-home/.*

Voter Information Privacy: Information on your voter registration affidavit will be used by elections officials to send you official information on the voting process, such as the location of your polling place and the issues and candidates that will appear on the ballot. Commercial use of voter registration information is prohibited by law and is a misdemeanor. Voter information may be provided to a candidate for office, a ballot measure committee, or other person for election, scholarly, journalistic, political, or governmental purposes, as determined by the Secretary of State. Driver license and social security numbers, or your signature as shown on your voter registration card, cannot be released for these purposes. If you have any questions about the use of voter information or wish to report suspected misuse of such information, please call the Secretary of State's Voter Hotline at (800) 345-VOTE (8683).

Ways to Vote

Vote by Mail

- Request a vote-by-mail ballot by **November 1**.
- Return by mail—must be postmarked on or before **November 8** and received by your county elections office no later than **November 14**.
- Return in person—to your county elections office or any polling place in your county before 8:00 p.m. on **November 8**.



Vote Early in Person

Some counties offer early voting at a few locations before Election Day. Contact your county elections office to see if they offer early voting. County contact information can be found at: *http://www.sos.ca.gov/elections/voting-resources/county-elections-offices/*.

Vote at the Polls on Election Day

- Polls are open on Election Day: **November 8 from 7:00 a.m. to 8:00 p.m.**
- The location of your polling place is printed on the back page of the sample ballot booklet your county elections official mailed to you. You can also find your polling place:

✆ By calling (800) 345-VOTE (8683)

Online at *www.sos.ca.gov/elections/polling-place*

By texting *Vote* to GOVOTE (468683)

Provisional Voting

If your name is not on the voter list at your polling place, you have the right to vote a provisional ballot.

What Is a Provisional Ballot?

A provisional ballot is a regular ballot that is placed in a special envelope prior to being put in the ballot box.

Who Casts a Provisional Ballot?

Provisional ballots are ballots cast by voters who:

- Believe they are registered to vote even though their names are not on the official voter registration list at the polling place.
- Vote by mail but did not receive their ballot or do not have their ballot with them, and instead want to vote at a polling place.

Will My Provisional Ballot Be Counted?

Your provisional ballot will be counted after elections officials have confirmed that you are registered to vote in that county and you did not already vote in that election.

You may vote a provisional ballot at any polling place in the county in which you are registered to vote, however, only the elections contests you are eligible to vote for will be counted.

How Can You Check the Status of Your Provisional Ballot?

Every voter who casts a provisional ballot has the right to find out from their county elections official if the ballot was counted and, if not, the reason why it was not counted.

Visit *http://www.sos.ca.gov/elections/ballot-status/* for a list of county contacts and information on how to check the status of your provisional ballot.

Secretary of State

Dear Fellow Californians,

There is no greater right than the right to vote. Through voting, you help select your local, state, and national leaders, and ensure that your voice is heard. The Presidential General Election is fast approaching. I encourage you to participate in your most fundamental right as a citizen of the United States of America.

This Voter Guide can help you make informed decisions. It includes impartial analysis, arguments in favor and against the many ballot measures, declarations of the candidates, the Voter Bill of Rights, and other important information.

All of the information is presented here as a reference for you. This guide is also available online on the California Secretary of State website: *www.voterguide.sos.ca.gov.*

Please take the time to read the information in this guide carefully as we approach Election Day. If you would like to know who is financing each of the campaigns, you can search campaign finance information at: *http://powersearch.sos.ca.gov/*.

If you have any questions about how to vote, or how to register to vote, you can contact the office of the Secretary of State by calling toll-free 1-800-345-VOTE (8683). To obtain the contact information of your local county elections officials, you can visit the Secretary of State website at: *www.sos.ca.gov/county-elections-offices.*

Thank you for your commitment to the future of both our state and nation. The Presidential General Election is Tuesday, November 8. Your vote is important. Remember that your vote is your voice. Be heard. VOTE!

California General Election Tuesday November 8, 2016

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★ ★ ★ ★ ★ OFFICIAL VOTER INFORMATION GUIDE ★ ★ ★ ★ ★

This quick reference guide contains summary and contact information for each state proposition appearing on the November 8, 2016, ballot.

- Polls are open from 7:00 a.m. to 8:00 p.m. on Election Day.
- Instructions on how to vote can be obtained from a poll worker or by reading your sample ballot booklet.
- New voters may be asked to provide identification or other documentation according to federal law. You have the right to cast a provisional ballot, even if you do not provide the documentation.
- Only eligible voters can vote.
- It is against the law to tamper with voting equipment.

QUICK-REFERENCE GUIDE

PROP 51 SCHOOL BONDS. FUNDING FOR K–12 SCHOOL AND COMMUNITY COLLEGE FACILITIES. INITIATIVE STATUTE.

SUMMARY

Authorizes $9 billion in general obligation bonds for new construction and modernization of K–12 public school facilities; charter schools and vocational education facilities; and California Community Colleges facilities. Fiscal Impact: State costs of about $17.6 billion to pay off both the principal ($9 billion) and interest ($8.6 billion) on the bonds. Payments of about $500 million per year for 35 years.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: The state could sell $9 billion in general obligation bonds for education facilities ($7 billion for K–12 public school facilities and $2 billion for community college facilities).

NO A NO vote on this measure means: The state would not have the authority to sell new general obligation bonds for K–12 public school and community college facilities.

ARGUMENTS

PRO Our children deserve safe schools where they can learn, but many schools and community colleges need repairs to meet health and safety standards. Prop. 51 will fix deteriorating schools, upgrade classrooms, and provide job-training facilities for veterans and vocational education. All projects are accountable to local taxpayers.

CON Prop. 51 was created for greedy developers to exploit taxpayers for profit. Prop. 51 stops legislators from providing fair school funding. Disadvantaged schools are left behind. There's no improvement in taxpayer accountability. It does nothing to fight waste, fraud and abuse. Governor Brown opposes Prop. 51. Vote NO on 51.

FOR ADDITIONAL INFORMATION

FOR

Yes on Proposition 51—Californians for Quality Schools
info@californiansforqualityschools.com
www.californiansforqualityschools.com

AGAINST

G. Rick Marshall, Chief Financial Officer
California Taxpayers Action Network
621 Del Mar Avenue
Chula Vista, CA 91910
(310) 346-7425
rick@StopProp51.org
StopProp51.org

PROP 52 MEDI-CAL HOSPITAL FEE PROGRAM. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

SUMMARY

Extends indefinitely an existing statute that imposes fees on hospitals to fund Medi-Cal health care services, care for uninsured patients, and children's health coverage. Fiscal Impact: Uncertain fiscal effect, ranging from relatively little impact to annual state General Fund savings of around $1 billion and increased funding for public hospitals in the low hundreds of millions of dollars annually.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: An existing charge imposed on most private hospitals that is scheduled to end on January 1, 2018 under current law would be extended permanently. It would be harder for the Legislature to make changes to it. Revenue raised would be used to create state savings, increase payments for hospital services to low-income Californians, and provide grants to public hospitals.

NO A NO vote on this measure means: An existing charge imposed on most private hospitals would end on January 1, 2018 unless additional action by the Legislature extended it.

ARGUMENTS

PRO YES on Proposition 52 extends the current state Medi-Cal hospital fee program, which generates over $3 billion a year in federal matching funds that pay for health care services for children, seniors and low-income families. Proposition 52 prohibits the Legislature from diverting this money for other purposes without voter approval.

CON Removes all accountability and oversight of over $3 billion of taxpayer dollars. Gives $3 billion to hospital CEOs with no independent audit and no requirement the money is spent on health care. Public funds can be spent on lobbyists, perks and salaries for hospital bureaucrats instead of children and seniors.

FOR ADDITIONAL INFORMATION

FOR

Yes on Proposition 52, a coalition of California Association of Hospitals and Health Systems and non-profit health care organizations.
info@yesprop52.org
www.yesprop52.org

AGAINST

George M. Yin
Californians for Hospital Accountabilty and Quality Care—No on 52, Sponsored by Service Employees International Union—United Healthcare Workers West
777 S. Figueroa Street, Suite 4050, Los Angeles, CA 90017
(213) 452-6565
gyin@kaufmanlegalgroup.com
www.noon52.com

QUICK-REFERENCE GUIDE

PROP 53 REVENUE BONDS. STATEWIDE VOTER APPROVAL. INITIATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY

Requires statewide voter approval before any revenue bonds can be issued or sold by the state for certain projects if the bond amount exceeds $2 billion. Fiscal Impact: State and local fiscal effects are unknown and would depend on which projects are affected by the measure and what actions government agencies and voters take in response to the measure's voting requirement.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: State revenue bonds totaling more than $2 billion for a project that is funded, owned, or managed by the state would require statewide voter approval.

NO A NO vote on this measure means: State revenue bonds could continue to be used without voter approval.

ARGUMENTS

PRO Proposition 53 requires voter approval for state megaprojects costing over $2 billion in state revenue bonds—like the bullet train. Doesn't impact local projects. Increases transparency so taxpayers know the true cost. Holds politicians accountable and stops blank checks. If taxpayers have to pay, they should have a say!

CON Prop. 53 erodes local control by requiring statewide vote on some local infrastructure projects. Empowers voters in faraway regions to reject your community's needs. Prop. 53 jeopardizes water supply, bridge safety, other repairs. No exemption for emergencies/disasters. California Professional Firefighters, cities, counties, Association of California Water Agencies urge No on 53. www.NoProp53.com

FOR ADDITIONAL INFORMATION

FOR

Yes on 53—Stop Blank Checks
925 University Ave.
Sacramento, CA 95825
(916) 500-7040
Info@StopBlankChecks.com
www.YESon53.com

AGAINST

No on Prop. 53—Californians to Protect Local Control
info@NoProp53.com
NoProp53.com

PROP 54 LEGISLATURE. LEGISLATION AND PROCEEDINGS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

SUMMARY

Prohibits Legislature from passing any bill unless published on Internet for 72 hours before vote. Requires Legislature to record its proceedings and post on Internet. Authorizes use of recordings. Fiscal Impact: One-time costs of $1 million to $2 million and ongoing costs of about $1 million annually to record legislative meetings and make videos of those meetings available on the Internet.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Any bill (including changes to the bill) would have to be made available to legislators and posted on the Internet for at least 72 hours before the Legislature could pass it. The Legislature would have to ensure that its public meetings are recorded and make videos of those meetings available on the Internet.

NO A NO vote on this measure means: Rules and duties of the Legislature would not change.

ARGUMENTS

PRO Prop. 54 stops special-interest, *surprise* legislation from passing either legislative house *without 72 hours* for review. Prop. 54 posts *all* the Legislature's public meetings online, so voters can review legislators' public actions. A bipartisan coalition of good-government, taxpayer, minority, business, and environmental groups backs Prop. 54. Requires no new tax money.

CON A NO vote continues free Internet & TV access for any California citizen to see how laws are made. A NO vote also prevents special interests like tobacco, oil, and drug companies from delaying passage of state laws. A NO vote also limits political "attack" ads.

FOR ADDITIONAL INFORMATION

FOR

Yes on 54—Voters First, Not Special Interests, Sponsored by Hold Politicians Accountable
1215 K Street, Suite 2260
Sacramento, CA 95814
(916) 325-0056
info@YesProp54.org
www.YesProp54.org

AGAINST

Steven Maviglio
Californians for an Effective Legislature
1005 12th St., Suite A
Sacramento, CA 95814
(916) 607-8340
steven.maviglio@gmail.com
www.NoOnProposition54.com

QUICK-REFERENCE GUIDE

PROP 55 TAX EXTENSION TO FUND EDUCATION AND HEALTHCARE. INITIATIVE CONSTITUTIONAL AMENDMENT.

SUMMARY

Extends by twelve years the temporary personal income tax increases enacted in 2012 on earnings over $250,000, with revenues allocated to K–12 schools, California Community Colleges, and, in certain years, healthcare. Fiscal Impact: Increased state revenues—$4 billion to $9 billion annually from 2019–2030—depending on economy and stock market. Increased funding for schools, community colleges, health care for low-income people, budget reserves, and debt payments.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Income tax increases on high-income taxpayers, which are scheduled to end after 2018, would instead be extended through 2030.

NO A NO vote on this measure means: Income tax increases on high-income taxpayers would expire as scheduled at the end of 2018.

ARGUMENTS

PRO Prop. 55 helps children thrive! Prop. 55 prevents $4 billion in cuts to California's public schools, and increases children's access to healthcare, by maintaining current tax rates on the wealthiest Californians—with strict accountability requirements. We can't go back to the deep cuts we faced during the last recession. *www.YesOn55.com*

CON VOTE NO ON 55—TEMPORARY SHOULD MEAN TEMPORARY. Voters supported higher taxes in 2012 because Governor Brown said they would be TEMPORARY. State budget estimates show higher taxes are not needed to balance the budget, but the special interests want to extend them to grow government bigger. TELL THEM NO.

FOR ADDITIONAL INFORMATION

FOR

Jordan Curley
Yes on 55—Californians for Budget Stability
1510 J Street, Suite 210
Sacramento, CA 95814
(916) 443-7817
info@protectingcalifornia.com
www.YesOn55.com

AGAINST

Howard Jarvis Taxpayers Association
www.hjta.org

PROP 56 CIGARETTE TAX TO FUND HEALTHCARE, TOBACCO USE PREVENTION, RESEARCH, AND LAW ENFORCEMENT. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

SUMMARY

Increases cigarette tax by $2.00 per pack, with equivalent increase on other tobacco products and electronic cigarettes containing nicotine. Fiscal Impact: Additional net state revenue of $1 billion to $1.4 billion in 2017–18, with potentially lower revenues in future years. Revenues would be used primarily to augment spending on health care for low-income Californians.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: State excise tax on cigarettes would increase by $2 per pack—from 87 cents to $2.87. State excise tax on other tobacco products would increase by a similar amount. State excise tax also would be applied to electronic cigarettes. Revenue from these higher taxes would be used for many purposes, but primarily to augment spending on health care for low-income Californians.

NO A NO vote on this measure means: No changes would be made to existing state taxes on cigarettes, other tobacco products, and electronic cigarettes.

ARGUMENTS

PRO Tobacco-related healthcare costs California taxpayers $3.5 billion annually, even if you don't smoke. Prop. 56 works like a user fee, taxing tobacco to help pay for smoking prevention and healthcare—so smokers pay their fair share for their costs. American Cancer Society Cancer Action Network sponsored Prop. 56 to prevent kids from smoking and save lives.

CON Follow the 56 money: This $1.6 billion tax increase gives $1 billion to health insurance companies and special interests. 56 cheats schools out of $600 million a year by circumventing our minimum school funding guarantee. Only 13% of the money helps smokers or prevents kids from starting. No on 56.

FOR ADDITIONAL INFORMATION

FOR

Yes on 56—Save Lives California
1020 12th Street, Suite 303
Sacramento, CA 95814
(916) 706-2487
info@YesOn56.org
YesOn56.org

AGAINST

No on 56—Stop the Special Interest Tax Grab
925 University Ave.
Sacramento, CA 95825
(916) 409-7500
Info@NoOnProposition56.com
www.NoOnProposition56.com

QUICK-REFERENCE GUIDE

PROP 57 CRIMINAL SENTENCES. PAROLE. JUVENILE CRIMINAL PROCEEDINGS AND SENTENCING. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

SUMMARY

Allows parole consideration for nonviolent felons. Authorizes sentence credits for rehabilitation, good behavior, and education. Provides juvenile court judge decides whether juvenile will be prosecuted as adult. Fiscal Impact: Net state savings likely in the tens of millions of dollars annually, depending on implementation. Net county costs of likely a few million dollars annually.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Certain state prison inmates convicted of nonviolent felony offenses would be considered for release earlier than otherwise. The state prison system could award additional sentencing credits to inmates for good behavior and approved rehabilitative or educational achievements. Youths must have a hearing in juvenile court before they could be transferred to adult court.

NO A NO vote on this measure means: There would be no change to the inmate release process. The state's prison system could not award additional sentencing credits to inmates. Certain youths could continue to be tried in adult court without a hearing in juvenile court.

ARGUMENTS

PRO California public safety leaders and victims of crime support Proposition 57—the Public Safety and Rehabilitation Act of 2016—because Prop. 57 focuses resources on keeping dangerous criminals behind bars, while rehabilitating juvenile and adult inmates and saving tens of millions of taxpayer dollars. YES on Prop. 57.

CON Vote NO on 57 because it:

- Authorizes EARLY RELEASE of violent criminals, including those who RAPE unconscious victims.
- Authorizes immediate release for 16,000 dangerous criminals, even convicted murderers.
- Amends the California Constitution; takes rights away from victims; grants more rights to criminals. Vote NO on 57.

FOR ADDITIONAL INFORMATION

FOR

James Harrison
Remcho, Johansen and Purcell, LLP
1901 Harrison Street, Suite 1550
Oakland, CA 94612
(510) 346-6200
Info@SafetyandRehabilitation.com
www.Vote4Prop57.com

AGAINST

William Kolkey
Stop Early Release of Violent Criminals Committee
FPPC#1386627
No on 57 Committee
921 11th Street, #300
Sacramento, CA 95814
(916) 409-7401
will@StopEarlyRelease.com
www.StopEarlyRelease.com

PROP 58 ENGLISH PROFICIENCY. MULTILINGUAL EDUCATION. INITIATIVE STATUTE.

SUMMARY

Preserves requirement that public schools ensure students obtain English language proficiency. Requires school districts to solicit parent/community input in developing language acquisition programs. Requires instruction to ensure English acquisition as rapidly and effectively as possible. Authorizes school districts to establish dual-language immersion programs for both native and non-native English speakers. Fiscal Impact: No notable fiscal effect on school districts or state government.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Public schools could more easily choose how to teach English learners, whether in English-only, bilingual, or other types of programs.

NO A NO vote on this measure means: Public schools would still be required to teach most English learners in English-only programs.

ARGUMENTS

PRO Teachers, parents, school principals, local school board members, and Governor Jerry Brown support Proposition 58 to help students learn English as quickly as possible and expand opportunities for English speakers to master a second language. Proposition 58 gives school districts local control to choose the most effective instruction methods for their students.

CON Prop. 58 is not about modernizing the way we teach English. It's about eliminating parental rights to an English-language education for their children. English-language success has been spectacular. Immigrant children are learning English faster than ever before and record numbers of immigrant students are gaining admission to our universities.

FOR ADDITIONAL INFORMATION

FOR

Lisa Gasperoni
Yes on 58—Californians for English Proficiency sponsored by the California State Council of Service Employees
1510 J Street, Suite 210
Sacramento, CA 95814
(916) 668-9103
info@SupportProp58.com
www.SupportProp58.com

AGAINST

www.KeepEnglish.org

QUICK-REFERENCE GUIDE

PROP 59 CORPORATIONS. POLITICAL SPENDING. FEDERAL CONSTITUTIONAL PROTECTIONS. LEGISLATIVE ADVISORY QUESTION.

SUMMARY

Asks whether California's elected officials should use their authority to propose and ratify an amendment to the federal Constitution overturning the United States Supreme Court decision in *Citizens United v. Federal Election Commission*. *Citizens United* ruled that laws placing certain limits on political spending by corporations and unions are unconstitutional. Fiscal Impact: No direct fiscal effect on state or local governments.

Shall California's elected officials use all of their constitutional authority, including, but not limited to, proposing and ratifying one or more amendments to the United States Constitution, to overturn Citizens United v. Federal Election Commission (2010) 558 U.S. 310, and other applicable judicial precedents, to allow the full regulation or limitation of campaign contributions and spending, to ensure that all citizens, regardless of wealth, may express their views to one another, and to make clear that corporations should not have the same constitutional rights as human beings?

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Voters would be asking their elected officials to use their constitutional authority to seek increased regulation of campaign spending and contributions. As an advisory measure, Proposition 59 does not require any particular action by the Congress or California Legislature.

NO A NO vote on this measure means: Voters would not be asking their elected officials to seek certain changes in the regulation of campaign spending and contributions.

ARGUMENTS

PRO Vote YES on Prop. 59 to tell Congress we want big money out of politics and overturn misguided Supreme Court rulings saying unlimited campaign spending is free speech and that corporations have the same constitutional rights as real people. Send a message to Congress that we'll hold them accountable.

CON The Legislature should stop wasting taxpayer dollars by putting do-nothing measures on the ballot that ask Congress to overturn the Supreme Court. Instead of wasting time and money on do-nothing ballot measures, politicians in Sacramento should focus on transparency and bringing jobs to California. Proposition 59 DOES NOTHING. Vote NO!

FOR ADDITIONAL INFORMATION

FOR
Derek Cressman
California Common Cause
(323) 536-1459
vote@yesonCAProp59.com
www.yesonCAProp59.com

AGAINST
Dave Gilliard
Gilliard, Blanning & Associates
5701 Lonetree Blvd., Suite 301
Rocklin, CA 95765
(916) 626-6804
info@gbacampaigns.com

PROP 60 ADULT FILMS. CONDOMS. HEALTH REQUIREMENTS. INITIATIVE STATUTE.

SUMMARY

Requires adult film performers to use condoms during filming of sexual intercourse. Requires producers to pay for performer vaccinations, testing, and medical examinations. Requires producers to post condom requirement at film sites. Fiscal Impact: Likely reduction of state and local tax revenues of several million dollars annually. Increased state spending that could exceed $1 million annually on regulation, partially offset by new fees.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: There would be additional workplace health and safety requirements placed on adult film productions in California and additional ways to enforce those requirements.

NO A NO vote on this measure means: Adult film productions in California would continue to be subject to current state and local workplace health and safety requirements, including the rules now interpreted to require condom use in adult film productions.

ARGUMENTS

PRO A YES vote on Prop. 60 will stop adult film pornographers from exposing their performers to life-threatening diseases that cost taxpayers millions of dollars. Prop. 60 gives California health officials new enforcement tools to ensure pornographers finally obey the same workplace protection rules that apply to other California industries.

CON Prop. 60 allows ANY Californian to sue adult film performers who distribute or produce adult content, violates their privacy, and weakens workplace safety. A single special interest group has spent millions to disguise Prop. 60's flaws. Join workers, public health, civil rights organizations, California Democratic Party and California Republican Party, VOTE NO on Prop. 60.

FOR ADDITIONAL INFORMATION

FOR
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Yes on Prop. 60, For Adult Industry Responsibility (FAIR)
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AGAINST
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QUICK-REFERENCE GUIDE

PROP 61 STATE PRESCRIPTION DRUG PURCHASES. PRICING STANDARDS. INITIATIVE STATUTE.

SUMMARY

Prohibits state from buying any prescription drug from a drug manufacturer at price over lowest price paid for the drug by United States Department of Veterans Affairs. Exempts managed care programs funded through Medi-Cal. Fiscal Impact: Potential for state savings of an unknown amount depending on (1) how the measure's implementation challenges are addressed and (2) the responses of drug manufacturers regarding the provision and pricing of their drugs.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: State agencies would generally be prohibited from paying more for any prescription drug than the lowest price paid by the U.S. Department of Veterans Affairs for the same drug.

NO A NO vote on this measure means: State agencies would continue to be able to negotiate the prices of, and pay for, prescription drugs without reference to the prices paid by the U.S. Department of Veterans Affairs.

ARGUMENTS

PRO Prop. 61, The California Drug Price Relief Act, would require all prescription drugs purchased by the State of California to be priced at or below the price paid for the same drug by the U.S. Dept. of Veterans Affairs, which pays by far the lowest price of any federal agency.

CON Experts say Prop. 61 would: increase prescription prices, reduce patient access to needed medicines, produce more bureaucracy and lawsuits that cost taxpayers millions, and hurt veterans by increasing their prescription costs. Strongly opposed by California Medical Association, California NAACP, California Taxpayers Association, Ovarian Cancer Coalition of Greater California, Veterans of Foreign Wars (VFW), Department of California. www.NoProp61.com

FOR ADDITIONAL INFORMATION

FOR

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AGAINST

No on Prop. 61—Californians Against the Deceptive Rx Proposition
(888) 279-8108
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PROP 62 DEATH PENALTY. INITIATIVE STATUTE.

SUMMARY

Repeals death penalty and replaces it with life imprisonment without possibility of parole. Applies retroactively to existing death sentences. Increases the portion of life inmates' wages that may be applied to victim restitution. Fiscal Impact: Net ongoing reduction in state and county criminal justice costs of around $150 million annually within a few years, although the impact could vary by tens of millions of dollars depending on various factors.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: No offenders could be sentenced to death by the state for first degree murder. The most serious penalty available would be a prison term of life without the possibility of parole. Offenders who are currently under a sentence of death would be resentenced to life without the possibility of parole.

NO A NO vote on this measure means: Certain offenders convicted for first degree murder could continue to be sentenced to death. There would be no change for offenders currently under a sentence of death.

ARGUMENTS

PRO Prop. 62 replaces the FAILED DEATH PENALTY SYSTEM with a strict life sentence without possibility of parole. Prisoners must work and pay restitution, instead of sitting on death row. Guarantees no innocent person is executed. TAXPAYERS SAVE $150 MILLION/year. Victims' family members and former death penalty advocates: YES on 62.

CON Prop. 62 repeals the death penalty for brutal killers, including child killers, mass murderers, serial killers, and rape/torture murderers. Prop. 62 means these murderers will live the rest of their lives at taxpayers' expense, with free healthcare, long after their victims are gone. Law enforcement, victims' families, and DAs oppose Prop. 62.

FOR ADDITIONAL INFORMATION

FOR

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Yes on Prop. 62, Replace the Costly, Failed Death Penalty System
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AGAINST

Mike Ramos
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520 Capitol Mall, Ste. 630
Sacramento, CA 95814
(800) 372-6417
info@noprop62yesprop66.com
www.noprop62yesprop66.com

QUICK-REFERENCE GUIDE

PROP 63 FIREARMS. AMMUNITION SALES. INITIATIVE STATUTE.

SUMMARY

Requires background check and Department of Justice authorization to purchase ammunition. Prohibits possession of large-capacity ammunition magazines. Establishes procedures for enforcing laws prohibiting firearm possession by specified persons. Requires Department of Justice's participation in federal National Instant Criminal Background Check System. Fiscal Impact: Increased state and local court and law enforcement costs, potentially in the tens of millions of dollars annually, related to a new court process for removing firearms from prohibited persons after they are convicted.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: A new court process would be created for the removal of firearms from individuals upon conviction of certain crimes. New requirements related to the selling or purchasing of ammunition would be implemented.

NO A NO vote on this measure means: No new firearm- or ammunition-related requirements would be implemented.

ARGUMENTS

PRO Proposition 63 will improve public safety by keeping guns and ammunition out of the wrong hands. Law enforcement and public safety leaders support Prop. 63 because it will reduce gun violence by preventing violent felons, domestic abusers, and the dangerously mentally ill from obtaining and using deadly weapons and ammo.

CON Law enforcement, anti-terrorism experts, and civil liberties groups overwhelmingly oppose Prop. 63. It was written by a politician seeking to make a name for himself, not the public safety community. It imposes costly burdens on law enforcement and the taxpayer and only affects the law-abiding.

FOR ADDITIONAL INFORMATION

FOR

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www.safetyforall.com

AGAINST

Coalition for Civil Liberties
info@coalitionforcivilliberties.com
www.stoptheammograb.com

PROP 64 MARIJUANA LEGALIZATION. INITIATIVE STATUTE.

SUMMARY

Legalizes marijuana under state law, for use by adults 21 or older. Imposes state taxes on sales and cultivation. Provides for industry licensing and establishes standards for marijuana products. Allows local regulation and taxation. Fiscal Impact: Additional tax revenues ranging from high hundreds of millions of dollars to over $1 billion annually, mostly dedicated to specific purposes. Reduced criminal justice costs of tens of millions of dollars annually.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Adults 21 years of age or older could legally grow, possess, and use marijuana for nonmedical purposes, with certain restrictions. The state would regulate nonmedical marijuana businesses and tax the growing and selling of medical and nonmedical marijuana. Most of the revenue from such taxes would support youth programs, environmental protection, and law enforcement.

NO A NO vote on this measure means: Growing, possessing, or using marijuana for nonmedical purposes would remain illegal. It would still be legal to grow, possess, or use marijuana for medical purposes.

ARGUMENTS

PRO Prop. 64 creates a safe, legal system for adult use of marijuana. It controls, regulates and taxes marijuana use, and has the nation's strictest protections for children. It provides billions for afterschool programs, job training, drug treatment, and cracking down on impaired driving. Fix our approach to marijuana. Visit YesOn64.org!

CON Proposition 64 purposely omits DUI standard to keep marijuana-impaired drivers off our highways. California Association of Highway Patrolmen and Senator Dianne Feinstein strenuously oppose. Legalizes ads promoting smoking marijuana, Gummy candy and brownies on shows watched by millions of children and teens. Shows reckless disregard for child health and safety. Opposed by California Hospital Association. Vote "No".

FOR ADDITIONAL INFORMATION

FOR

Dustin Moore
Yes on 64, Californians to Control, Regulate and Tax Adult Use of Marijuana While Protecting Children
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AGAINST

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No on 64
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www.NoOn64.net

QUICK-REFERENCE GUIDE

PROP 65 CARRYOUT BAGS. CHARGES. INITIATIVE STATUTE.

SUMMARY

Redirects money collected by grocery and certain other retail stores through mandated sale of carryout bags. Requires stores to deposit bag sale proceeds into a special fund to support specified environmental projects. Fiscal Impact: Potential state revenue of several tens of millions of dollars annually under certain circumstances, with the monies used to support certain environmental programs.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: If state law (1) prohibits giving customers certain carryout bags for free and (2) requires a charge for other types of carryout bags, the resulting revenue would be deposited in a new state fund to support certain environmental programs.

NO A NO vote on this measure means: If charges on carryout bags are required by a state law, that law could direct the use of the resulting revenue toward any purpose.

ARGUMENTS

PRO YES ON 65—PROTECT THE ENVIRONMENT. In a deal brokered by special interest lobbyists, the Legislature REQUIRED grocery stores to CHARGE and KEEP fees on certain bags at checkout. Grocers get $300 million richer, while shoppers lose $300 million. Prop. 65 redirects those fees to environmental projects, not grocer profits.

CON Prop. 65 is sponsored by out-of-state plastic companies from South Carolina and Texas. They don't care about California's environment, they just want to confuse voters and distract from the real issue: the need to phase out plastic grocery bags. 65 is deceptive and doesn't deserve your vote.

FOR ADDITIONAL INFORMATION

FOR

Yes on 65
2350 Kerner Blvd., Suite 250
San Rafael, CA 94901
info@SayYesOn65.com
www.SayYesOn65.com

AGAINST

Mark Murray
Californians Against Waste
921 11th Street, Ste. 420
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murray@cawrecycles.org
cawrecycles.org

PROP 66 DEATH PENALTY. PROCEDURES. INITIATIVE STATUTE.

SUMMARY

Changes procedures governing state court challenges to death sentences. Designates superior court for initial petitions and limits successive petitions. Requires appointed attorneys who take noncapital appeals to accept death penalty appeals. Exempts prison officials from existing regulation process for developing execution methods. Fiscal Impact: Unknown ongoing impact on state court costs for processing legal challenges to death sentences. Potential prison savings in the tens of millions of dollars annually.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Court procedures for legal challenges to death sentences would be subject to various changes, such as time limits on those challenges and revised rules to increase the number of available attorneys for those challenges. Condemned inmates could be housed at any state prison.

NO A NO vote on this measure means: There would be no changes to the state's current court procedures for legal challenges to death sentences. The state would still be limited to housing condemned inmates only at certain state prisons.

ARGUMENTS

PRO Our death penalty system is bogged down by decades of appeals. We need to reform it, not repeal it, by passing Proposition 66. Prop. 66 saves millions, brings closure to victims' families and justice to brutal murderers. Innocent persons won't be executed under Prop. 66. Victims' families, DAs and law enforcement support Proposition 66.

CON Prop. 66 is not real reform. We don't know all of its consequences, but we do know this: it adds more layers of government bureaucracy causing more delays, costs taxpayers money, and increases California's risk of executing an innocent person. Prop. 66 is a costly experiment that makes matters worse.

FOR ADDITIONAL INFORMATION

FOR

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www.noprop62yesprop66.com

AGAINST

No on 66—Californians for Fair Justice
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www.NoonCAProp66.org

QUICK-REFERENCE GUIDE

PROP 67 BAN ON SINGLE-USE PLASTIC BAGS. REFERENDUM.

SUMMARY

A "Yes" vote approves, and a "No" vote rejects, a statute that prohibits grocery and other stores from providing customers single-use plastic or paper carryout bags but permits sale of recycled paper bags and reusable bags. Fiscal Impact: Relatively small fiscal effects on state and local governments, including a minor increase in state administrative costs and possible minor local government savings from reduced litter and waste management costs.

WHAT YOUR VOTE MEANS

YES A YES vote on this measure means: Most grocery stores, convenience stores, large pharmacies, and liquor stores would be prohibited from providing single-use plastic carryout bags. Stores generally would be required to charge at least 10 cents for any other carryout bag provided to customers at checkout. Stores would keep the resulting revenue for specified purposes.

NO A NO vote on this measure means: Stores could continue to provide single-use plastic carryout bags and other bags free of charge unless a local law restricts the use of such bags.

ARGUMENTS

PRO YES on 67 protects California's successful efforts to PHASE OUT PLASTIC GROCERY BAGS. Plastic bags strangle wildlife, litter communities, raise clean-up costs, clog recycling machines. Bans on plastic grocery bags are WORKING IN 150 CALIFORNIA COMMUNITIES. Don't let out-of-state plastic companies stop California. YES on 67.

CON DON'T BE FOOLED. Prop. 67 is a $300 million annual HIDDEN TAX on consumers who will be forced to pay $.10 for every grocery bag at checkout. Not one penny goes to the environment. All $300 million goes to grocer profits. Stop the bag tax . . . VOTE NO ON PROP. 67.

FOR ADDITIONAL INFORMATION

FOR

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California vs Big Plastic
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protectplasticbagban.org

AGAINST

No on 67
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San Rafael, CA 94901

Visit the Secretary of State's Website to:

- Research campaign contributions and lobbying activity
  cal-access.sos.ca.gov OR
  powersearch.sos.ca.gov
- View this voter guide in other languages
  www.voterguide.sos.ca.gov
- Find your polling place on Election Day
  www.sos.ca.gov/elections/polling-place
- Get vote-by-mail ballot information
  www.sos.ca.gov/elections/voter-registration/vote-mail
- Read helpful information for first-time voters
  www.sos.ca.gov/elections/voting-california
- Watch live election results after polls close on Election Day
  http://vote.sos.ca.gov

Audio & Large Print Voter Information Guides

This guide is available at no cost in English, Chinese, Hindi, Japanese, Khmer, Korean, Spanish, Tagalog, Thai, and Vietnamese.

To order:

- Call the Secretary of State's toll-free voter hotline at (800) 345-8683
- Visit *www.sos.ca.gov*
- Download an audio MP3 version at *www.voterguide.sos.ca.gov/en/audio*

Find Your Polling Place

Polling places are established by county elections officials. When you receive your county sample ballot booklet in the mail a few weeks before Election Day, look for your polling place address on the back cover.

You may also visit the Secretary of State's website at *www.sos.ca.gov/elections/polling-place* or call the toll-free Voter Hotline at (800) 345-VOTE (8683).

You can also text *Vote* to GOVOTE (468683) to find the location of your polling place.

Elections in California

California law requires the following information to be printed in this guide.

Party-Nominated/Partisan Offices

Political parties may formally nominate candidates for party-nominated/partisan offices at the primary election. A nominated candidate will represent that party as its official candidate for the specific office at the general election and the ballot will reflect an official designation. The top vote-getter for each party at the primary election moves on to the general election. Parties also elect officers of county central committees at the primary election.

A voter can only vote in the primary election of the political party he or she has disclosed a preference for upon registering to vote. However, a political party may allow a person who has declined to disclose a party preference to vote in that party's primary election.

Voter-Nominated Offices

Political parties are not entitled to formally nominate candidates for voter-nominated offices at the primary election. A candidate nominated for a voter-nominated office at the primary election is the nominee of the people and not the official nominee of any party at the general election. A candidate for nomination to a voter-nominated office shall have his or her party preference, or lack of party preference, stated on the ballot, but the party preference designation is selected solely by the candidate and is shown for the information of the voters only. It does not mean the candidate is nominated or endorsed by the party designated, or that there is an affiliation between the party and candidate, and no candidate nominated by the voters shall be deemed to be the officially nominated candidate of any political party. In the county sample ballot booklet, parties may list the candidates for voter-nominated offices who have received the party's official endorsement.

Any voter may vote for any candidate for a voter-nominated office, if they meet the other qualifications required to vote for that office. The top two vote-getters at the primary election move on to the general election for the voter-nominated office even if both candidates have specified the same party preference designation. No party is entitled to have a candidate with its party preference designation move on to the general election, unless the candidate is one of the two highest vote-getters at the primary election.

Nonpartisan Offices

Political parties are not entitled to nominate candidates for nonpartisan offices at the primary election, and a candidate at the primary election is not the official nominee of any party for the specific office at the general election. A candidate for nomination to a nonpartisan office may not designate his or her party preference, or lack of party preference, on the ballot. The top two vote-getters at the primary election move on to the general election for the nonpartisan office.

Top Contributors to Statewide Candidates and Ballot Measures

When a committee (a person or group of people who receive or spend money for the purpose of influencing voters to support or oppose candidates or ballot measures) supports or opposes a ballot measure or candidate and raises at least $1 million, the committee must report its top 10 contributors to the California Fair Political Practices Commission (FPPC). The committee must update the top 10 list when there is any change.

These lists are available on the FPPC website at *http://www.fppc.ca.gov/transparency/top-contributors.html*.

PROPOSITION

51 SCHOOL BONDS. FUNDING FOR K–12 SCHOOL AND COMMUNITY COLLEGE FACILITIES. INITIATIVE STATUTE.

51

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Authorizes $9 billion in general obligation bonds: $3 billion for new construction and $3 billion for modernization of K–12 public school facilities; $1 billion for charter schools and vocational education facilities; and $2 billion for California Community Colleges facilities.
- Bars amendment to existing authority to levy developer fees to fund school facilities, until new construction bond proceeds are spent or December 31, 2020, whichever is earlier.
- Bars amendment to existing State Allocation Board process for allocating school construction funding, as to these bonds.
- Appropriates money from the General Fund to pay off bonds.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- State costs of about $17.6 billion to pay off both the principal ($9 billion) and interest ($8.6 billion) on the bonds. Payments of about $500 million per year for 35 years.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

California Has 8.3 Million Students Enrolled in Public K–14 Education. The public school system from kindergarten through grade 12 (K–12) currently has about 6.2 million students, 10,000 schools (including 1,100 charter schools), 950 school districts, and 58 county offices of education. The California Community Colleges currently have 2.1 million students at 113 campuses operated by 72 community college districts. The community colleges offer courses in English, other basic skills, and citizenship, as well as provide workforce training, associate degrees, and preparation for transfer to universities.

K–12 Public School Facility Projects Approved Through State Review Process. Under the state's existing School Facilities Program, schools submit project proposals to the state's Office of Public School Construction. The project proposals may be for buying land, constructing new buildings, and modernizing (that is, renovating) existing buildings. Schools are eligible for new construction funding if they do not have enough space for all current and projected students. Schools are eligible for modernization funding for buildings that are at least 25 years old.

Program Based Upon State and Local Partnership. In most cases, schools that receive state grant funding for approved projects must contribute local funding for those projects. For buying land and new construction projects, the state and local shares are each 50 percent of project costs. For modernization projects, the state share is 60 percent and the local share is 40 percent of project costs. If schools lack sufficient local funding, they may apply for additional state grant

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

funding, up to 100 percent of the project cost, thereby reducing or eliminating their required local contributions.

A Few Special Program Components for Two Types of K–12 Facility Projects. Most of the basic program rules apply to career technical education and charter school facilities, but a few program components differ. Although the state pays 60 percent of project costs for most modernization projects, it pays 50 percent for career technical education and charter school modernization projects. (Shares for new construction are the same.) For career technical education, state grants also are capped at $3 million for a new facility and $1.5 million for a modernized facility. For charter school projects, proposals also must undergo a special state review to determine if the charter school is financially sound. In addition to these special rules, schools that cannot cover their local share for these two types of projects may apply for state loans (rather than additional grant funding). Schools must repay their career technical education loans and charter school loans over maximum 15-year and 30-year periods, respectively.

Community College Facility Projects Approved in Annual Budget. Though community colleges also may receive state funding for buying land, constructing new buildings, and modernizing existing buildings, the process for submitting and approving projects is different than for K–12 facilities. To receive state funding, community college districts must submit project proposals to the Chancellor of the community college system. The Chancellor then decides which projects to submit to the Legislature and Governor, with projects approved as part of the state budget process and funded in the annual state budget act.

Local Contributions Vary for Community College Facilities. Unlike for K–12 facilities, state law does not specify certain state and local contributions for community college facilities. Instead, the Chancellor of the community college system ranks all submitted facility projects using a scoring system. Projects for which community colleges contribute more local funds receive more points under the scoring system.

State Primarily Funds Public School and Community College Facilities Through General Obligation Bonds. The state typically issues general obligation bonds to pay for facility projects. A majority of voters must approve these bonds. From 1998 through 2006, voters approved four facility bonds that provided a total of $36 billion for K–12 facilities and $4 billion for community college facilities. Voters have not approved new state facility bonds since 2006. Today, the state has virtually no remaining funding from previously issued school and community college facility bonds. (For more information on the state's use of bonds, see the "Overview of State Bond Debt" later in this voter guide.)

State Retires Bonds Over Time by Making Annual Debt Service Payments. In 2016–17, the state is paying $2.4 billion to service debt from previously issued

For the full text of Proposition 51, see page 118.

state general obligation bonds for school facilities and $300 million for community college facilities.

Districts Raise Local Funding for Facilities Mainly Through Local General Obligation Bonds. School and community college districts may sell local general obligation bonds to help cover the cost of facility projects. Districts must get at least 55 percent of their voters to approve the sale of these local bonds. Since 1998, school and community college districts have sold about $64 billion and $21 billion, respectively, in local general obligation bonds for facility projects.

A Few Other Local Funding Sources. In addition to local bonds, school districts can raise funds for school facilities by charging fees on new development. Since 1998, school districts have raised $10 billion from developer fees. (Community colleges do not have this revenue-raising option.) School and community college districts both can raise local funding for facilities using various other methods, including parcel taxes, but they use these other methods much less frequently.

PROPOSAL

As shown in Figure 1, this measure allows the state to sell $9 billion of general obligation bonds for public school and community college facilities.

K–12 School Facilities. As shown in the figure, the $7 billion for K–12 school facilities is designated for four types of projects: new construction, modernization, career technical education facilities, and charter school facilities. The rules of the state's existing school facility program would apply to these funds.

Community College Facilities. The $2 billion community college funding is for any facility project, including buying land, constructing new buildings, modernizing existing buildings, and purchasing equipment. Consistent with existing practice, the Legislature and Governor would approve specific community college facility projects to be funded with the bond monies in the annual budget act.

FISCAL EFFECTS

Measure Would Increase State Debt Service Costs. The cost to the state of issuing the proposed bonds would depend on the timing of the bond sales, the interest rates in effect at the time the bonds are sold, and the time period over which the bonds are repaid. The state likely would issue these bonds over a period of about five years and make principal and interest

Figure 1
Proposition 51: Uses of Bond Funds
(In Millions)

	Amount
K–12 Public School Facilities	
New construction	$3,000
Modernization	3,000
Career technical education facilities	500
Charter school facilities	500
Subtotal	($7,000)
Community College Facilities	$2,000
Total	**$9,000**

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

payments from the state's General Fund (its main operating account) over a period of about 35 years. If the bonds were sold at an average interest rate of 5 percent, the total cost to pay off the bonds would be $17.6 billion ($9 billion in principal plus $8.6 billion in interest). **The average payment per year would be about $500 million**. This amount is less than half of 1 percent of the state's current General Fund budget.

Measure Would Have Some Impact on Local Revenue-Raising and Facility Spending. Passage of a new state bond would likely have some effect on local district behavior. This is because school and community college districts typically are required to make local contributions to their facilities if they want to obtain state funding. The exact effect on local behavior is uncertain. On the one hand, some school and community college districts might raise and spend more locally given the availability of additional state funds. As a result, more overall facility activity might occur in these districts over the next several years. In contrast, other school and community college districts might raise and spend less locally as the availability of additional state funds means they would not need to bear the full cost of their facility projects. These districts might complete the same number of projects as they would have absent a new state bond. They would use the newly available state funding to offset what they otherwise would have raised locally.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 51, see page 118.

★ ARGUMENT IN FAVOR OF PROPOSITION 51 ★

PROP. 51 MAKES PROTECTING STUDENTS A TOP PRIORITY.

Many schools and community colleges are outdated and need repairs to meet basic health and safety standards—including retrofitting for earthquake safety, fire safety, and removing asbestos and lead paint and pipes. Prop. 51 will help make sure our local schools are updated and safe for students.

PROP. 51 WILL HELP ALL CALIFORNIA STUDENTS GET A QUALITY EDUCATION.

"Nothing is more disheartening than teaching students when our classrooms are falling apart and don't provide access to student's basic academic needs. To help students succeed, Prop. 51 will repair outdated and deteriorating schools and upgrade classroom technology, libraries, and computer and science labs."—*Tim Smith, 2014 California Teacher of the Year, Florin High School*

IMPROVING VOCATIONAL EDUCATION AND HELPING RETURNING VETERANS.

"Prop. 51 allows local schools and community colleges to upgrade vocational education classrooms so students can train for good-paying careers and contribute to California's growing economy. And, we owe it to our veterans to provide training and help them transition to the workplace."—*Tom Torlakson, State Superintendent of Public Instruction*

INCREASE ACCESS TO AN AFFORDABLE COLLEGE EDUCATION.

"By upgrading and repairing our community college facilities, we can increase access to quality, affordable higher education for all Californians. Our community colleges contribute to the economic and social strength of local communities throughout the state, and help college students avoid thousands of dollars in debt. We need to show our support to California's students."—*Jonathan Lightman, Executive Director, Faculty Association of California Community Colleges*

CALIFORNIA FACES A LONG BACKLOG OF NEIGHBORHOOD PROJECTS.

"School nurses are aware of the need for improved school facilities, the overcrowding, plumbing and other environmental issues requiring modifications necessary to maintain optimum health and safety of the students, faculty, and staff will be addressed by Prop. 51.''—*Kathy Ryan, President, California School Nurses Organization*

PROTECTS LOCAL CONTROL OVER EVERY PROJECT.

"Prop. 51 will protect local control by requiring funding only be used for school improvement projects approved by local school and community college boards. All of the money must be spent locally, where taxpayers can have a voice in deciding how these funds are best used to improve their neighborhood schools."—*Chris Ungar, President, California School Boards Association*

A FISCALLY RESPONSIBLE WAY TO UPGRADE AND REPAIR SCHOOLS WITH TOUGH TAXPAYER ACCOUNTABILITY.

"A statewide bond is the best option for meeting California's school construction needs, because education is a statewide concern. Without this bond, local taxpayers will face higher local property taxes that create inequalities between schools in different communities, treat taxpayers differently, and lack strong accountability provisions."—*Teresa Casazza, President, California Taxpayers Association*

WE CAN'T WAIT ANY LONGER.

We haven't passed a statewide school bond in ten years, and now we face a massive backlog of local school projects. Our schools are in desperate need of upgrades and repairs to keep our students safe and ensure they have facilities where they can learn.

Prop. 51 will help our students and veterans succeed.

PLEASE JOIN US IN VOTING YES ON PROP. 51.

JUSTINE FISCHER, President
California State PTA

KEN HEWITT, President
California Retired Teachers Association

LARRY GALIZIO, Chief Executive Officer
Community College League of California

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 51 ★

Since 2001, we've approved over $146 billion in state and local bonds to fix California schools. Yet Prop. 51 supporters still claim our schools don't "meet basic health and safety standards."

Where did the money go?

INVITES FRAUD:

The last statewide school bond audit by the California Department of Finance found BILLIONS AT RISK of *"being used for unintended purposes . . . if left unresolved . . . will continue to adversely affect bond accountability."*

Because spending safeguards are not implemented or not working bond funds can be misused.

Both Governor Jerry Brown and Attorney General Kamala Harris have raised this concern.

Prop. 51 keeps this flawed system in place.

BLOCKS REFORMS:

Prop. 51 ties the hands of legislators and locks in current rules. It hijacks our democracy by *barring legislators from correcting rules* that deny disadvantaged schools the help they need.

This guarantees developers don't pay their fair share.

ALLOWS RECKLESS SPENDING:

Bonds are expensive. Two tax dollars are required to payback every dollar borrowed. Bonds should be used for things that last decades. Incredibly, Prop. 51 funds can be spent on equipment with a 10-year "average useful life." *Bond payments will last decades longer.*

This is like buying your lunch with a 30-year mortgage and paying for it many times over.

Prop. 51 may be the most self-serving, devious measure ever put before California voters. *It was created by the construction industry to benefit the construction industry.*

Visit *StopProp51.org*. See who's behind the Yes campaign.

Vote NO on 51!

G. RICK MARSHALL, Chief Financial Officer
California Taxpayers Action Network

WENDY M. LACK, Director
California Taxpayers Action Network

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 51 ★

Bonds are debts that must be repaid with interest, over time.

Since 1998, California voters have approved $35 billion in state school construction bonds. All were placed on the ballot by the Legislature and backed by the Governor. Proposition 51 is different. The Legislature did not put Proposition 51 on the ballot. And the Governor opposes it.

We join the Governor in opposition because Proposition 51 is:

UNAFFORDABLE:

Californians already pay $2 billion each year on state school bonds. Proposition 51 would cost an additional $500 million each year—money the state doesn't have.

In total, California has over $400 billion in debt and financial commitments. Governor Brown calls this a "wall of debt." Borrowing more money we can't afford is reckless.

UNACCOUNTABLE:

With local school bonds, communities control spending. With state school bonds, bureaucrats and their cronies call the shots. *Local control is the best way to minimize government waste.*

UNNECESSARY:

For school construction, *local bond measures work better than statewide bonds.* Last June voters approved over 90% of local school bonds on the ballot, providing over $5.5 billion for school construction.

School enrollment is expected to decline over the next 10 years. Proposition 51 wastes money favoring construction of new schools over remodeling existing schools.

INEQUITABLE:

Proposition 51 funding would go to those first in line. Large wealthy districts would receive the "lion's share" because they have dedicated staff to fill out paperwork. This shuts out smaller, poorer districts that need help most. This is *morally wrong*.

REFORM FIRST:

Proposition 51 does nothing to change the bureaucratic, one-size-fits-none state bond program. Small, needy school districts can't afford expensive consultants used by the big, wealthy schools. Program reforms are needed so disadvantaged districts get the money they deserve.

Last February Governor Brown told the *Los Angeles Times*, *"I am against the developers' $9-billion bond . . . [it] squanders money that would be far better spent in low-income communities."*

Brown also said benefit promises to state employees are *"liabilities so massive that it is tempting to ignore them . . .. We can't possibly pay them off in a year or two or even 10. Yet, it is our moral obligation to do so—particularly before we make new commitments."*

We agree.

Proposition 51 is supported by businesses and politicians who benefit from more state spending. Yes on 51 has already raised over $6 million from those who would profit most, including the *Coalition for Adequate School Housing (CASH)* and *California Building Industry Association.*

California Taxpayers Action Network is an all-volunteer, non-partisan, non-profit that promotes fiscal responsibility and transparency in local government. We combat government secrecy, waste and corruption and seek to ensure everyone receives good value for their tax dollars.

We're people just like you who support quality schools and want fiscal responsibility in government without waste.

Join us in voting NO on Proposition 51.

www.caltan.org

G. RICK MARSHALL, Chief Financial Officer
California Taxpayers Action Network

WENDY M. LACK, Director
California Taxpayers Action Network

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 51 ★

Prop. 51 ensures that every California student has the opportunity to learn in safe, up-to-date schools while also protecting taxpayers.

PROP. 51 IS NOT A TAX INCREASE.

Prop. 51 is a bond that will be repaid from a very small amount of the state's EXISTING annual revenue to repair and upgrade local schools. It does NOT raise taxes.

PROTECTS TAXPAYERS FROM HIGHER LOCAL TAXES.

Without matching dollars from a statewide school bond, taxpayers will face higher local property taxes to pay for school repairs and upgrades, and some school districts may never be able to afford fixing schools on their own. This partnership between the state and local school districts has fairly funded school repairs for all students.

REQUIRES TOUGH ACCOUNTABILITY.

Prop. 51 puts local voters in control of how school bond monies are spent. It requires annual audits and tough accounting standards.

PROP. 51 MAKES PROTECTING STUDENTS A PRIORITY.

Many schools and community colleges are outdated and need repairs to meet basic health and safety standards—including retrofitting for earthquake safety, fire safety, and removing asbestos and lead paint and pipes. These repairs are critical to keeping every student safe.

YES ON PROP. 51.

Prop. 51 will help every California student get a quality education, increase access to an affordable college education, and improve vocational training for veterans and students preparing for the workplace.

Prop. 51 is supported by taxpayer groups, teachers, business, Republicans, and Democrats. See for yourself at *www.californiansforqualityschools.com*

Please join us in supporting Prop. 51.

CHRIS UNGAR, President
California School Boards Association

TERESA CASAZZA, President
California Taxpayers Association

LARRY GALIZIO, Chief Executive Officer
Community College League of California

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PROPOSITION

52 MEDI-CAL HOSPITAL FEE PROGRAM. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Extends indefinitely an existing statute that imposes fees on hospitals to obtain federal matching funds.
- Uses fees to fund Medi-Cal health care services, care for uninsured patients, and children's health coverage.
- Requires voter approval to change use of fees or funds.
- Permits other amendments or repeal by Legislature with a two-thirds vote.
- Declares fee proceeds do not count as revenue toward state spending limit or Proposition 98 funding requirement.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- The fiscal effect of this measure is uncertain primarily because it is not known whether the Legislature would have extended the hospital fee absent the measure.
- If the Legislature would have extended the hospital fee absent this measure, the measure would likely have relatively little fiscal effect on the state and local governments.
- If the Legislature would *not* have extended the hospital fee absent the measure, the measure could result in state General Fund savings of around $1 billion annually and increased funding for public hospitals in the low hundreds of millions of dollars annually.

52

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Overview of Medi-Cal and Hospitals

Medi-Cal Provides Health Care Benefits to Low-Income Californians. The Medi-Cal program provides health care benefits to low-income Californians who meet certain eligibility requirements. These health care benefits include services such as primary care visits, emergency room visits, surgery, and prescription drugs. Currently, Medi-Cal provides health care benefits to over 13 million Californians. Total spending on Medi-Cal in 2015–16 was roughly $95 billion, of which about $23 billion was from the state's General Fund (its main operating account).

Cost of Medi-Cal Is Shared Between the State and the Federal Government. For most costs of the Medi-Cal program, the state and the federal government each pay half of the costs. In some instances, the federal government pays a greater share of the costs than the state. In order to receive federal funding for Medi-Cal, the state must follow various federal laws and requirements.

Public and Private Hospitals Provide Care to People Enrolled in Medi-Cal. There are about 450 private and public general acute care hospitals ("hospitals") licensed in California that provide services such as emergency services, surgery, and outpatient care to Californians, including those enrolled in Medi-Cal. About four-fifths of the hospitals are private and about one-fifth of the hospitals are public. Public hospitals are owned and operated by public entities such as counties or the University of California. Private hospitals are owned and operated by

private entities, which can be nonprofit or for-profit.

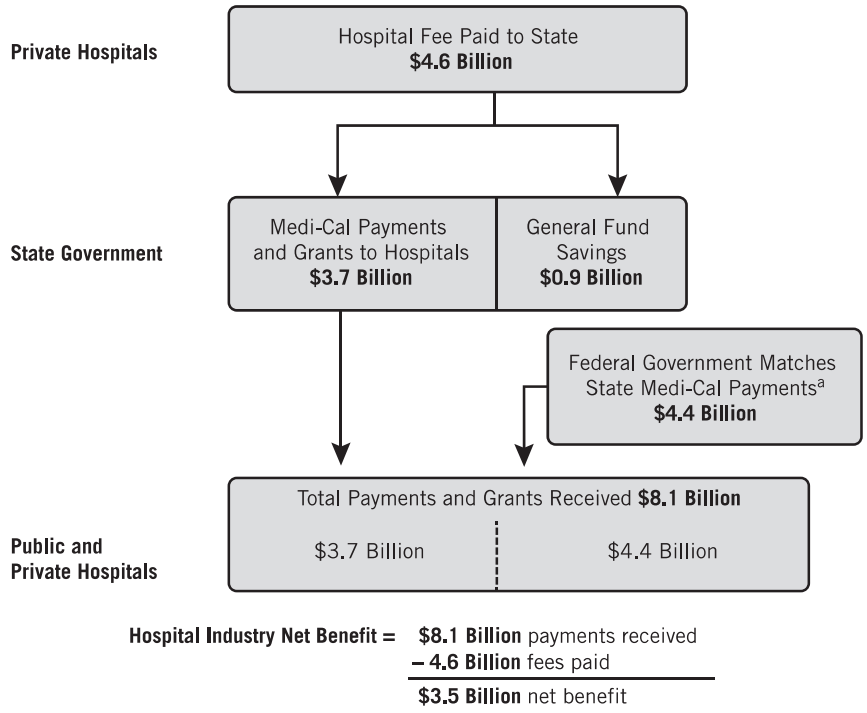
Hospital Quality Assurance Fee

In recent years, the state has imposed a special charge on most private hospitals. This charge is called the Hospital Quality Assurance Fee ("hospital fee"). It has been collected since 2009. The charging of the hospital fee by the state is set to end on January 1, 2018. Figure 1 depicts the collection and use of hospital fee revenue in 2015–16. The fee revenue is used for two purposes: (1) to fund the state share of increased Medi-Cal payments for hospitals and grants for public hospitals ($3.7 billion in 2015–16) and (2) to generate state General Fund savings ($850 million in 2015–16). The hospital fee revenue used for increased Medi-Cal payments was matched with $4.4 billion in federal Medi-Cal funding, resulting in $8.1 billion in total Medi-Cal payments and grants to hospitals in 2015–16.

Hospital Fee Results in a Net Benefit to Hospital Industry. As shown in Figure 1, the hospital industry received in 2015–16 a *net benefit* of $3.5 billion as a result of the fee

Figure 1

State Savings and Hospital Net Benefit Resulting From the Hospital Fee in 2015–16



[a] The state and the federal government share the costs of Medi-Cal. When the state spends money on Medi-Cal, the federal government generally provides federal funding to pay for the federal share of the costs.

For the full text of Proposition 52, see page 122.

because the hospitals received $8.1 billion in payments and paid $4.6 billion in fees. Public hospitals in particular received a benefit of $235 million in 2015–16, comprised of grants and increased Medi-Cal payments. (While the hospital industry as a whole received a net benefit, a small number of private hospitals paid more in fee revenue than they received in Medi-Cal payments.)

Money From Hospital Fee Results in State Savings. As shown in Figure 1, fee revenue is used to generate state General Fund savings. These savings occur because hospital fee revenue is used to pay for children's health care services in Medi-Cal that would otherwise be paid using state General Fund money. (The state General Fund is supported primarily through taxes such as income and sales taxes.) The amount of fee revenue used to generate state General Fund savings is based on a formula in state law. In 2015–16, the state General Fund savings was about $850 million.

Legislature Has Extended Hospital Fee Several Times in the Past. Since the fee began in 2009, the Legislature has extended it four times from the date that the fee was to end under law in place at the time. Consistent with this past practice, the Legislature could potentially enact a new law to extend the current hospital fee beyond January 1, 2018 (the date when the current fee ends).

Any Extension of Hospital Fee Must Be Approved by Federal Government. If the fee is extended beyond January 1, 2018 by the Legislature or by voters, the extension must also be approved by the federal government to receive federal funding. Federal government approval is required because the state uses hospital fee revenue to fund the state share of Medi-Cal payment increases to hospitals, and the federal government also pays for part of these payment increases.

PROPOSAL

Makes Hospital Fee Permanent. While the hospital fee would otherwise end under current state law on January 1, 2018, Proposition 52 extends the current fee permanently. As with any extension of the hospital fee, the extension under this measure requires federal approval.

Makes It Harder for the State to End Hospital Fee. Under the measure, the state could end the hospital fee if *two-thirds* of each house of the Legislature votes to do so. Under current law, the fee can be ended with a *majority* vote in each house.

Makes It Harder to Change the Hospital Fee. Under the measure, changes to the hospital fee generally would require future voter approval in a statewide election. Under current law, changes to the fee can be made by the Legislature. For example, the Legislature can change the formula used to generate state General Fund savings. The measure does allow the Legislature—with a two-thirds vote of each house—to make certain specific changes, such as those necessary to obtain federal approval of the hospital fee.

Excludes Money From Hospital Fee in Annual Calculation of School Funding. The State Constitution requires certain formulas to be used to calculate an annual minimum funding level for K–12 education and California Community Colleges. These formulas take into account the amount of state General Fund revenue. As under current practice, the measure excludes money raised by the hospital fee in these calculations. The measure provides for this

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

exclusion in an amendment to the State Constitution.

FISCAL EFFECTS

The fiscal effect of this measure is uncertain primarily because it is not known whether the Legislature would have extended the hospital fee absent the measure. To date, the Legislature has extended the fee four times. Therefore, given past practice, it is possible the Legislature would have extended the hospital fee beyond January 1, 2018 in any case. There are also recent changes to federal law that may require changes to the structure of the hospital fee, and these could affect the fiscal impact of the hospital fee. Below, we describe the fiscal effect of this measure under two main scenarios:

- ***If Legislature Would Have Extended Hospital Fee Absent the Measure.*** In this case, the measure would likely have relatively little fiscal effect on the state and local governments (for the period over which the Legislature extended the fee). This is because the state would already be generating General Fund savings and providing funding to public hospitals. We note, however, that absent this measure the Legislature could change the structure of the hospital fee such that the General Fund savings and public hospital benefit could be different from what it has been.
- ***If Legislature Would* Not *Have Extended Hospital Fee Absent the Measure.*** In this case, the measure would have a major fiscal effect on the state and local governments. The fiscal effects under this scenario would likely be similar to those experienced recently (as adjusted for growth over time): (1) annual General Fund savings of about $1 billion and (2) annual funding to the state and local public hospitals in the low hundreds of millions of dollars. The state and local governments also would realize some increased revenues as a result of the added federal funds brought into the state by the fee. These impacts, however, could be affected by new federal requirements that may require changes to the hospital fee. At this time, it is unclear what changes to the hospital fee would be necessary to comply with federal requirements. Any such changes could increase, decrease, or not change at all the impacts on the state and local governments.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 52, see page 122.

★ ARGUMENT IN FAVOR OF PROPOSITION 52 ★

YOUR YES VOTE ON PROPOSITION 52 WILL KEEP A GOOD IDEA WORKING—ONE THAT'S DOING A LOT OF GOOD FOR A LOT OF GOOD PEOPLE WHO NEED THE HELP.

WHAT DOES PROPOSITION 52 DO?

It does two things.

First, it extends the current Medi-Cal hospital fee program that generates more than $3 billion a year in federal matching funds that would not be available otherwise. This money helps provide Medi-Cal health care services to over 13 million Californians, including:

- 6.7 million children;
- 1.6 million seniors with chronic diseases;
- 4.5 million low-income working families whose wages can't sustain them; and
- persons with disabilities.

Second, Proposition 52 strictly prohibits the Legislature from using these funds for any other purpose without a vote of the people.

That's it.

WHO IS BEHIND THIS INITIATIVE AND WHY IS IT ON THE BALLOT?

The Medi-Cal hospital fee program was initially enacted as a bi-partisan program by the Legislature in 2009. It has been renewed three times, but each time there have been attempts to divert the money to some other use. It has been placed on the ballot by California's over 400 local community hospitals in order to ensure that California continues to receive its fair share of federal matching funds for Medi-Cal in order to serve our most vulnerable citizens and to prevent the diversion of the funds for any other purpose.

WHO IS SUPPORTING PROPOSITION 52?

This Initiative has generated the unprecedented support of virtually all major health care, business, labor, and community organizations throughout the state. It is unlikely that a consensus coalition like this has ever been achieved before. For example, the California Teachers Association, California Building Trades Council, California Professional Firefighters and the Teamsters Union and over 30 local unions have joined with the California Chamber of Commerce, the California Business Roundtable, as well as advocacy organizations for children, seniors and the disabled. Additionally, it has been endorsed by both the state Democratic and Republican parties. In today's very contentious political environment, this alone is an amazing development.

HOW DOES PROPOSITION 52 IMPACT CALIFORNIA TAXPAYERS?

This measure GENERATES OVER $3 BILLION IN AVAILABLE FEDERAL FUNDS WITH NO STATE COST TO CALIFORNIA TAXPAYERS.

By extending the current state Medi-Cal hospital fee the state will continue to receive more than $3 billion a year in available federal matching funds for Medi-Cal. Without it, the shortfall will cause some community safety net hospitals to close.

Please VOTE YES ON PROPOSITION 52 TO KEEP A GOOD IDEA WORKING—THAT'S DOING A LOT OF GOOD FOR A LOT OF GOOD PEOPLE.

C. DUANE DAUNER, President
California Hospital Association

THERESA ULLRICH, MSN, NP-C President
California Association of Nurse Practitioners

DEBORAH HOWARD, Executive Director
California Senior Advocates League

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 52 ★

PROP. 52 DOESN'T HELP ANYONE BUT HOSPITAL CEOs AND LOBBYISTS.

PROP. 52 IS A BAIT-AND-SWITCH: The money it claims to provide for children and seniors? They already get that money. California law *already provides* the more than $3,000,000,000 in funding for healthcare services. Prop. 52 won't change that.

What Prop. 52 really does is change our Constitution to *permanently remove* any accountability, oversight, or guarantee that the $3,000,000,000 be spent on healthcare by these CEOs and their lobbyists.

Why are they spending tens of millions on Prop. 52? Because they keep getting caught misusing our money:

- Hospital corporations profiting from Prop. 52 have been fined hundreds of millions of dollars for *fraudulent, unnecessary, or excessive Medi-Cal or Medicare billing.*
- Other hospital CEOs took those tax dollars meant for the poor and elderly and spent them on luxury car leases, country club memberships, and multi-million dollar salaries for executives.
- Hospital CEOs sponsoring Prop. 52 make as much as $153,000 EVERY WEEK.

All Prop. 52 does is remove any accountability or oversight on the very CEOs who have committed fraud and wasted precious tax dollars on luxury perks for themselves.

Don't get fooled by this complicated, unnecessary change to our Constitution. It is a special interest trick designed to eliminate oversight of greedy hospital CEOs and their lobbyists—at the expense of taxpayers and vulnerable Californians.

VOTE NO ON PROP. 52

www.NoOn52.com

VIRGINIA ANDERS-ELLMORE, Nurse Practitioner

MICHELLE ROSS, Healthcare Worker

JOVITA SALCEDO, Medi-Cal Beneficiary

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★ ARGUMENT AGAINST PROPOSITION 52 ★

"Our health care dollars should be treating patients, not funding lavish perks for millionaire CEOs. *Prop. 52 takes resources from patients and communities and siphons it into the pockets of rich special interests, with no oversight, no accountability, and no guarantee it is even spent on health care.* That's wrong and makes nurses' and doctors' jobs harder."—*Virginia Anders-Ellmore, Nurse Practitioner*

- *Prop. 52 gives hospital CEOs a check worth more than $3 billion*—with no strings attached, no oversight, and no requirement the money is spent on health care.
- *Prop. 52 gives more than $3,000,000,000 to the same CEOs already being paid millions* and using our tax dollars for perks like luxury car leases and golf fees, *with zero accountability.*
- *Prop. 52 is great for hospital CEOs and their lobbyists, but bad for patients,* low-income women and children, seniors, and veterans.

The wealthy hospital CEOs and their lobbyists are spending millions—including our tax dollars—to trick you into believing Prop. 52 helps Medi-Cal patients.

It doesn't. It hurts the people who need it most and only helps hospital lobbyists and their overpaid CEOs.

This is what it really does:

- *Prop. 52 frees hospital CEOs and lobbyists from any oversight or accountability* for how they spend the $3,000,000,000 of taxpayer dollars they receive to treat low-income residents.
- Forces the state to give billions in federal low-income health care benefits to hospitals with *no oversight, no accountability, and no guarantee it will be spent on health care at all,* let alone health care for low-income women, children, and seniors.
- These same CEOs and lobbyists have spent millions intended for low-income health care on overpriced CEO salaries, luxury boxes at sporting events, country club memberships, payments to Wall Street investors, and other perks.

Here is what advocates for low-income patients say:

"This initiative takes money from needy Californians and gives it to rich millionaires instead, with no oversight and no requirement it be spent on health care for poor people, or even health care at all. Our healthcare system is already broken—and this no-strings attached money grab by rich CEOs will only make it worse."—*Michelle Ross, Healthcare Worker*

"I'm already struggling to make ends meet and can't afford to take my children to the doctor. Now they want to take what little I have and give it to the special interests and corporations who run for-profit hospitals, no questions asked."—*Jovita Salcedo, Medi-Cal Patient*

The corporate-funded California Hospital Association wrote Prop. 52 in order to permanently guarantee more than $3,000,000,000 of our federal and state health care dollars go to them no matter what, *with no oversight and no guarantee it be spent on health care.*

It rigs the system in favor of corporations and millionaires and hurts low-income women, children, and seniors. *It eliminates oversight* of how this $3,000,000,000 in our tax money is spent and asks us to trust the CEOs and lobbyists instead.

We need more oversight of CEOs, not less.

VOTE NO ON PROP. 52

www.NoOn52.com

VIRGINIA ANDERS-ELLMORE, Nurse Practitioner
MICHELLE ROSS, Healthcare Worker
JOVITA SALCEDO, Medi-Cal Beneficiary

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 52 ★

What Proposition 52 IS . . . and what it's NOT.

Prop. 52 is about providing access to Medi-Cal health care services for children, seniors and low-income families.

It simply EXTENDS the CURRENT state Medi-Cal hospital fee that generates over $3 billion a year in federal matching funds that pay for that care.

Proposition 52 IS NOT ABOUT COMPENSATION OR SALARIES.

Who is FOR Proposition 52 . . . who is AGAINST?

Go to *www.YesProp52.org* for the entire list of nearly 1,000 supporters, but here is a representative sample: California Hospital Association; California Teachers Association; California Chamber of Commerce; California Building Trades Council; California State Association of Counties; California Labor Federation; the California Business Roundtable; California Professional Firefighters; as well as advocacy organizations for children, seniors and the disabled.

There is ONLY ONE SMALL ORGANIZATION FUNDING OPPOSITION TO 52. Its representative testified to lawmakers that the LEGISLATURE SHOULD HAVE THE POWER TO DIVERT HEALTH CARE DOLLARS to other purposes.

We vigorously disagree.

Proposition 52, PROHIBITS THE LEGISLATURE FROM DIVERTING these funds to any other purposes WITHOUT a VOTE OF THE PEOPLE.

Medi-Cal has been caring for Californians for over 50 years. Today over thirteen million are touched, cared-for, healed and made healthier because of Medi-Cal and it's made stronger by a good idea that's working.

That good idea is Proposition 52.

Please vote YES on 52.

ANN-LOUISE KUHNS, President
California Children's Hospital Association
GARY PASSMORE, Vice President
Congress of California Seniors
DR. SHANNON UDOVIC-CONSTANT, Trustee
California Medical Association

PROPOSITION

53 REVENUE BONDS. STATEWIDE VOTER APPROVAL. INITIATIVE CONSTITUTIONAL AMENDMENT.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Requires statewide voter approval before any revenue bonds can be issued or sold by the state for certain projects if the bond amount exceeds $2 billion.
- Applies to any projects that are financed, owned, operated, or managed by the state, or by a joint agency formed between the state and a federal government agency, another state, and/or a local government.
- Prohibits dividing projects into multiple separate projects to avoid statewide voter approval requirement.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Fiscal impact on state and local governments is unknown and would depend on which projects are affected by the measure, whether they are approved by voters, and whether any alternative projects or activities implemented by government agencies have higher or lower costs than the original project proposal.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

State Pays for Infrastructure Projects Using Cash and Borrowing. The state builds various types of infrastructure projects like bridges, dams, prisons, and office buildings. In some cases, the state pays for projects on a pay-as-you-go basis using tax revenues received each year. In other cases, the state borrows money to pay for projects, especially for larger projects.

State Borrows Money Using Bonds. The main way the state borrows money is by selling bonds to investors. Over time, the state pays back these investors with interest. The state sells two main types of bonds: general obligation bonds and revenue bonds. The state repays general obligation bonds using the state General Fund, which is funded primarily by income and sales taxes. In contrast, the state usually repays revenue bonds using revenue from fees or other charges paid by the users of the project (such as from bridge tolls). Figure 1 shows how a state revenue bond generally works. (For more information on the state's use of bonds, see the "Overview of State Bond Debt" later in this voter guide.)

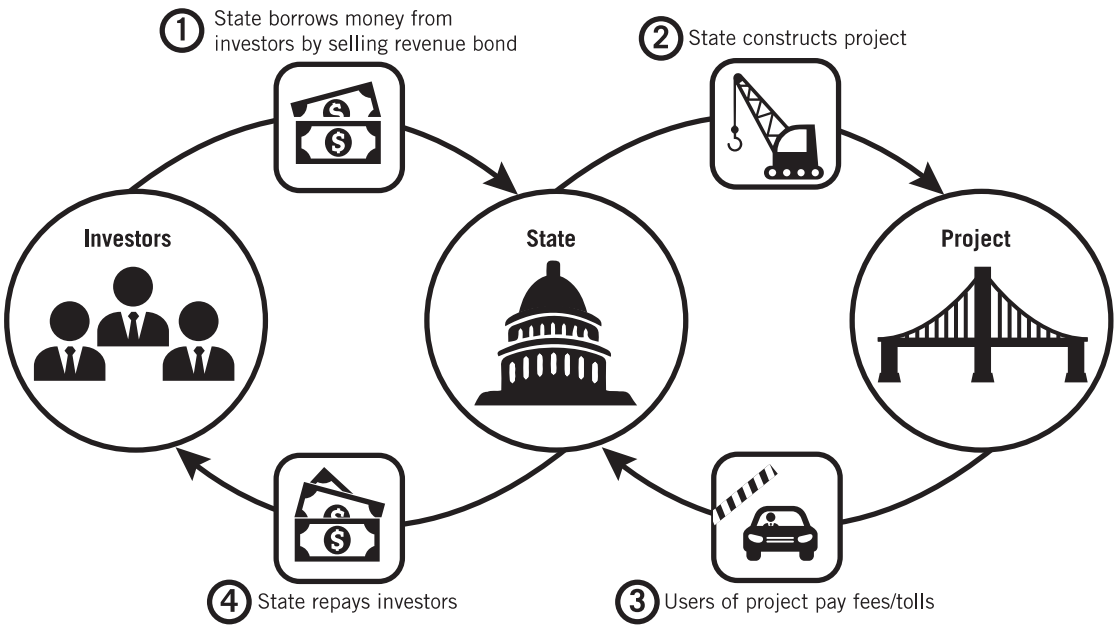
Voter Approval Not Required for State Revenue Bonds. Under the California Constitution, state general obligation bonds need voter approval before the state can use them to pay for a project. State revenue bonds do not need voter approval under existing state law.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Figure 1

How a State Revenue Bond Works



PROPOSAL

Requires Voter Approval of Certain State Revenue Bonds. The measure requires statewide voter approval of revenue bonds that meet all of the following conditions:

- ***State Sells the Revenue Bonds.*** Revenue bonds are sold by the state, as well as certain associations that the state creates or in which the state is a member. The statewide voting requirement does not apply to bonds sold by cities, counties, schools, community colleges, and special districts.
- ***Bonds Sold for State Project.*** The revenue bonds are sold for a project that is funded, owned, operated, or managed by the state. The measure also contains provisions to prevent a single project from being separated into multiple projects to avoid voter approval.
- ***Bonds for the Project Exceed $2 Billion.*** The revenue bonds sold for a project total more than $2 billion. Under the measure, this amount would be adjusted every year for inflation.

For the full text of Proposition 53, see page 123.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

FISCAL EFFECTS

The measure's fiscal effects on state and local governments are unknown. It is unlikely there would be very many projects large enough to be affected by the measure's requirement for voter approval. However, for those projects that are affected, the fiscal effects would depend on what actions the state, local governments, and voters take in response to this measure's voting requirement.

Measure Likely to Cover Relatively Few Projects

Few Projects Cost Over $2 Billion. Relatively few state projects are likely to be large enough to meet the measure's $2 billion requirement for voter approval. Two state projects that are over $2 billion and might use revenue bonds are (1) the California "WaterFix" project, which would build two tunnels to move water through the Sacramento-San Joaquin River Delta; and (2) the California High-Speed Rail project. It is possible other large projects could be affected in the future, such as new bridges, dams, or highway toll roads.

Uncertain Which Projects Would Be Affected. While it is unlikely that very many projects would be large enough to be affected by the measure, there is some uncertainty regarding which projects would be affected. This is because the measure does not define a "project." As a result, the courts and the state would have to make decisions about what they consider to be a single project. For example, in some cases a project could be narrowly defined as a single building (like a hospital). In other cases, a project could be more broadly defined as including multiple buildings in a larger complex (like a medical center). A broader definition could result in more projects meeting the $2 billion requirement, thus requiring voter approval.

How Government Agencies and Voters Respond Would Affect Costs

Government and Voters Could Take Different Actions. When a proposed project meets this measure's requirements for voter approval, governments and voters could respond in different ways. These responses, in turn, would determine the fiscal effects, if any, of this measure:

- On the one hand, if the state held an election and voters approved the project, the state could proceed with the project as planned using revenue bonds. As a result, there would be little fiscal effect from this measure.
- On the other hand, if voters rejected the project or the state chose not to hold an election as required by this measure, the state would not be able to use revenue bonds for the project. Without access to revenue bonds, the state and/or

ANALYSIS BY THE LEGISLATIVE ANALYST CONTINUED

local governments might take other actions to meet the concerns the project was intended to address. They might (1) replace the large project with other smaller projects, (2) perform other activities that would reduce the need for the project, or (3) find other ways to pay for the project instead of using revenue bonds. These actions could result in either higher or lower net costs depending on the specific alternatives that governments pursued and how they compared to the original project proposal.

Some Actions Could Result in Higher Costs. Some types of government and voter response to this measure could result in higher costs for the state and local governments. For example, it could be more expensive in some cases for state and local governments to complete several smaller projects than it would have been for the state to build the original large project. This could happen if the large project was a more efficient way to meet the concerns that the project addressed.

The state also could fund a project in a different way than revenue bonds that might be more expensive. For example, the state could partner with a private company that would sell bonds to fund the project. The state would then have to pay back the private company. This could result in higher costs for the state because the private company would need to make a profit on the project. Also, the private company would probably pay higher interest rates than the state. The private company would likely pass these higher borrowing costs on to the state.

Some Actions Could Result in Lower Costs. Other types of responses could result in lower state and local costs. For example, state and local governments might find ways to make better use of existing infrastructure. For instance, local water agencies might implement water conservation measures, which could reduce the need to build new dams or other projects to provide more water. If existing infrastructure could meet the state's needs adequately with these types of actions, there would be savings from not having to spend the money to build a new project.

The state also could fund a project in a way that might be cheaper than using revenue bonds. For example, the state could borrow money using general obligation bonds. While state general obligation bonds require voter approval, there would be some savings because they have lower interest rates than revenue bonds.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 53, see page 123.

★ ARGUMENT IN FAVOR OF PROPOSITION 53 ★

Proposition 53, the Stop Blank Checks initiative, is simple. It only does two things:

1) It requires California voter approval for STATE projects that would use over $2 billion in state revenue bonds.
2) BEFORE THAT VOTE, it ensures full disclosure of the TOTAL COST of any state revenue bond project greater than $2 billion.

Currently, other state bonds for water, school and transportation projects require voter approval. But a loophole in state law allows politicians and unaccountable state agencies to circumvent a public vote and borrow BILLIONS in state revenue bond debt for massive state projects WITHOUT VOTER APPROVAL.

Proposition 53 will STOP POLITICIANS FROM ISSUING BLANK CHECK DEBT to complete billion dollar state boondoggles. Take California's bullet train. They told us it would cost California taxpayers $10 billion. Now we know it's going to cost more than $60 billion! Yet, you don't have a right to vote on that huge increase!

Right now, there is NO VOTE BY THE LEGISLATURE OR THE PEOPLE required to issue these massive state mega-bonds. Unelected and unaccountable state bureaucrats have all the power and you have to pay through higher water rates or increased fees!

Proposition 53 says IF YOU HAVE TO PAY, YOU SHOULD HAVE A SAY.

Proposition 53 just GIVES YOU A VOICE, A VOTE, added TRANSPARENCY, and it HOLDS POLITICIANS ACCOUNTABLE. That's it! Read the initiative for yourself.

Proposition 53 STOPS POLITICIANS FROM LYING about the real cost of state mega-projects. Willie Brown, once the state's most powerful politician, wrote that lowballing initial budgets is commonplace with public projects. He said, "The idea is to get going. Start digging a hole and make it so big, there's no alternative to coming up with the money to fill it in."

Despite the scare tactics of the politicians, bureaucrats and corporations that feed off of the state's public debt, Proposition 53 DOES NOT IMPACT LOCAL PROJECTS, the University of California, freeway construction or needed response after a natural disaster.

Proposition 53 SIMPLY APPLIES THE LONG-STANDING CONSTITUTIONAL PROTECTION against politicians imposing higher debt without voter approval to MASSIVE STATE REVENUE BONDS.

Proposition 53 just ENSURES FULL BUDGET DISCLOSURE AND VOTER APPROVAL of state revenue bonds for California's mega-bucks projects that will affect future generations.

Join California's leading state and local taxpayer organizations, small businesses, working families and nearly one million Californians who put Proposition 53 on the ballot. Vote YES on 53!

DINO CORTOPASSI, Retired farmer

JON COUPAL, President
Howard Jarvis Taxpayers Association

JOHN MCGINNESS, Elected Sheriff (Retired)

53

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 53 ★

Prop. 53 doesn't give you a say. Quite the opposite. Prop. 53 erodes your voice and the voice of your community. Please read it for yourself.

PROP. 53 ERODES LOCAL CONTROL BY FORCING STATEWIDE VOTES ON SOME LOCAL PROJECTS

Local government groups representing California's cities, counties and local water districts, including the League of California Cities and Association of California Water Agencies, oppose this measure, warning it could give voters in faraway regions the power to deny local projects your community needs.

PROP. 53 DOES NOT INCLUDE AN EXEMPTION FOR EMERGENCIES/DISASTERS

California Professional Firefighters warns Prop. 53's failure to contain an exemption for emergencies *"could delay our state's ability to rebuild critical infrastructure following earthquakes, wildfires, floods or other natural disasters."*

PROP. 53 WOULD JEOPARDIZE MUCH NEEDED REPAIRS TO WATER SUPPLY, BRIDGES, AND OTHER CRITICAL INFRASTRUCTURE

Prop. 53 will jeopardize your community's ability to fix aging infrastructure, including improving water supply, making bridge and freeway safety repairs, and renovating hospitals to make them earthquake safe.

PROP. 53 IS A SELF-INTEREST ABUSE OF THE INITIATIVE PROCESS

Prop. 53 is a multi-million dollar attempt to stop one single project. We cannot allow one well-financed individual to abuse the initiative process and jeopardize vital infrastructure and safety projects around the state.

PROP. 53 IS OPPOSED BY A BROAD, BIPARTISAN COALITION OF ORGANIZATIONS INCLUDING:

• California Professional Firefighters • California State Sheriffs' Association • Association of California Water Agencies • California Hospital Association • League of California Cities • Firefighters, paramedics, family farmers, environmentalists, nurses, cities, counties, local water districts, and law enforcement.

www.NoProp53.com

LOU PAULSON, President
California Professional Firefighters

KEITH DUNN, Executive Director
Self-Help Counties Coalition

SHERIFF DONNY YOUNGBLOOD, President
California State Sheriffs' Association

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 53 ★

PROP. 53 ERODES LOCAL CONTROL AND CONTAINS NO EXEMPTION FOR EMERGENCIES/NATURAL DISASTERS

Prop. 53 is opposed by a broad, bipartisan coalition of organizations including California Professional Firefighters, California Chamber of Commerce, California Hospital Association, firefighters, paramedics, family farmers, environmentalists, nurses, law enforcement, and local governments because it would erode local control and jeopardize vital infrastructure improvements in communities across California.

ERODES LOCAL CONTROL BY REQUIRING STATEWIDE VOTE FOR SOME LOCAL PROJECTS

Groups representing California's cities, counties and local water agencies, including League of California Cities and Association of California Water Agencies, all oppose Prop. 53. Under this measure, cities and towns that come together to form a joint powers agency or similar body with the state to build needed infrastructure could have to put their local project on a statewide ballot. That means voters in faraway regions could veto some local projects your community needs and supports—like water storage or bridge safety repairs—even though those voters don't use or care about your local improvements.

NO EXEMPTION FOR EMERGENCIES OR NATURAL DISASTERS

California Professional Firefighters, representing 30,000 firefighters and paramedics, warns: *"Prop. 53 irresponsibly fails to contain an exemption for natural disasters or major emergencies. That flaw could delay our state's ability to rebuild critical infrastructure following earthquakes, wildfires, floods or other natural or man-made disasters."*

THREATENS WATER SUPPLY AND DROUGHT PREPAREDNESS

The Association of California Water Agencies says: *"Prop. 53 could threaten a wide range of local water projects including storage, desalination, recycling and other vital projects to protect our water supply and access to clean, safe drinking water. Prop. 53 will definitely impede our ability to prepare for future droughts."*

JEOPARDIZES ABILITY TO REPAIR OUTDATED INFRASTRUCTURE

Our communities already suffer from a massive backlog of local infrastructure needs, including improving water supply and delivery, making safety repairs to bridges, overpasses and freeways, and renovating community hospitals to make them earthquake safe. Prop. 53 will jeopardize local communities' ability to repair aging infrastructure. The California State Sheriffs' Association says: *"Reliable infrastructure is critical to public safety. This measure erodes local control and creates new hurdles that could block communities from upgrading critical infrastructure such as bridges, water systems and hospitals."*

FINANCED AND PROMOTED BY MULTI-MILLIONAIRE WITH A PERSONAL AGENDA

This measure is financed entirely by one multi-millionaire and his family, who are spending millions in an attempt to disrupt a single water infrastructure project. Irrespective of one's position on that single project, his initiative has far-reaching, negative implications for other infrastructure projects throughout California. We cannot allow one multi-millionaire to abuse the initiative system to push his narrow personal agenda.

OPPOSED BY A BROAD BIPARTISAN COALITION:

• California Professional Firefighters • California State Sheriffs' Association • Association of California Water Agencies • League of California Cities • California Hospital Association • California Chamber of Commerce

Prop. 53 is a misguided measure that:

• Erodes local control by requiring a statewide vote on some local projects. • Disrupts our ability to build critically needed water storage and supply. • Contains no exemptions for emergencies/natural disasters.

www.NoProp53.com

LOU PAULSON, President
California Professional Firefighters

TIM QUINN, Executive Director
Association of California Water Agencies

MARK GHILARDUCCI, Director
California Office of Emergency Services

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 53 ★

Proposition 53 trusts voters. Proposition 53's opponents are afraid of voters.

OPPONENTS INCLUDE SPECIAL INTERESTS WHO HAVE FOUGHT TAX REFORM FOR DECADES, EVEN PROPOSITION 13. They include insiders who profit from massive state revenue bond projects, and politicians and bureaucrats who don't trust you to decide whether to approve boondoggles like the $64 billion bullet train and the $6 billion Bay Bridge fiasco that now requires $6 tolls.

IF TAXPAYERS HAVE TO PAY, THEY SHOULD HAVE A SAY! Prop. 53 holds politicians accountable by giving you a vote on state mega-projects paid for by state revenue bonds over $2 billion. Voters will have the right to decide, just as we do with all other kinds of state bonds. And Prop. 53 finally unmasks the true cost of all multibillion dollar state bonds.

PROP. 53 TRUSTS VOTERS to decide whether to approve the massive multibillion dollar increase in the bullet train's price tag.

PROP. 53 TRUSTS VOTERS—California taxpayers—to decide by a simple majority whether to spend $17 billion to tunnel water under the Delta to Southern California.

PROP. 53 WOULD HAVE TRUSTED VOTERS to decide whether extravagant design changes on the Bay Bridge were worth $5 billion in cost overruns and outrageous tolls that working families can't afford.

Prop. 53 clearly exempts local projects. Read it yourself at *www.YESon53.com*.

The Sacramento Bee said Prop. 53 won't hurt disaster relief because *" . . . emergency repairs are traditionally paid for by the federal government or other sources—not revenue bonds."*

IF YOU TRUST TAXPAYERS AND VOTERS more than lobbyists, politicians and bureaucrats, VOTE YES ON PROPOSITION 53!

JON COUPAL, President
Howard Jarvis Taxpayers Association

KAREN MITCHOFF, Contra Costa County Supervisor

MAURY HANNIGAN, California Highway Patrol Commissioner (Retired)

PROPOSITION

54 LEGISLATURE. LEGISLATION AND PROCEEDINGS. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

OFFICIAL TITLE AND SUMMARY — PREPARED BY THE ATTORNEY GENERAL

- Prohibits Legislature from passing any bill unless it has been in print and published on the Internet for at least 72 hours before the vote, except in cases of public emergency.
- Requires the Legislature to make audiovisual recordings of all its proceedings, except closed session proceedings, and post them on the Internet.
- Authorizes any person to record legislative proceedings by audio or video means, except closed session proceedings.
- Allows recordings of legislative proceedings to be used for any legitimate purpose, without payment of any fee to the State.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- One-time costs of $1 million to $2 million and ongoing costs of about $1 million annually to record legislative meetings and make videos of those meetings available on the Internet.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

State Legislature Makes Laws. The California Legislature has two houses: the Senate and the Assembly. Legislative rules guide the process by which bills become laws. In this process, legislators discuss bills in committee hearings and other settings. They often change bills based on these discussions. Typically, legislators take several days to consider these changes before they vote on whether to pass the bill. Sometimes, however, legislators take less time to consider these changes.

Legislature's Public Meetings. The State Constitution requires meetings of the Legislature and its committees to be open to the public, with some exceptions (such as meetings to discuss security at the State Capitol). Live videos of most, but not all, of these meetings are available on the Internet. The Legislature keeps an archive of many of these videos for several years. The Legislature does not charge fees for the use of these videos. The Legislature spends around $1 million each year on recording, posting, and storing these videos. Under current state statute, recordings of Assembly meetings cannot be used for political or commercial purposes.

Legislature's Budget. The Constitution limits how much the Legislature can spend on its own operations. This limit increases with growth in California's population and economy. This year, the Legislature's budget is about $300 million—less than 1 percent of total spending from the General Fund (the state's main operating account).

PROPOSAL

Proposition 54 amends the Constitution to change the rules and duties of the

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Figure 1

Key Changes That Would Happen if Proposition 54 Passes

- A bill (including changes to that bill) would have to be available on the Internet for at least 72 hours before the Legislature could pass it.[a]
- The Legislature would have to ensure that all of its public meetings were recorded, with videos posted on the Internet within 24 hours.
  - These videos would have to be downloadable for at least 20 years.

[a] This rule has exceptions for emergencies, including natural disasters.

Legislature. Figure 1 summarizes the proposition's key changes. The Legislature's costs to comply with these requirements would be counted within the Legislature's annual spending limit.

Changes How State Legislature Makes Laws. If Proposition 54 passes, a bill (including changes to that bill) would have to be made available to legislators and posted on the Internet for at least 72 hours before the Legislature could pass it. In an emergency, like a natural disaster, the Legislature could pass bills faster. This could only happen, however, if the Governor declares a state of emergency and two-thirds of the house considering the bill votes to pass the bill faster.

Changes Rules of Legislature's Public Meetings. If Proposition 54 passes, videos of all of the Legislature's public meetings would have to be (1) recorded, (2) posted on the Internet within 24 hours following the end of the meeting, and (3) downloadable from the Internet for at least 20 years. (These requirements would take effect beginning January 1, 2018.) In addition, members of the public would be allowed to record and broadcast any part of a public legislative meeting. Proposition 54 also changes state statute so that anyone could use videos of legislative meetings for any legitimate purpose and without paying a fee to the state.

FISCAL EFFECTS

The fiscal impact of Proposition 54 would depend on how the Legislature decides to meet these new requirements. The main costs of the proposition relate to the recording of videos of legislative meetings and storage of those videos on the Internet. The state would likely face: (1) **one-time costs of $1 million to $2 million** to buy cameras and other equipment and (2) **annual costs of about $1 million** for more staff and online storage for the videos. These costs would be less than 1 percent of the Legislature's budget for its own operations.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 54, see page 125.

★ ARGUMENT IN FAVOR OF PROPOSITION 54 ★

Democrats, Republicans and Independents agree it's time to PUT VOTERS FIRST, NOT SPECIAL INTERESTS.

THAT'S WHY DIVERSE GROUPS LIKE *the League of Women Voters of California, California Chamber of Commerce, California State Conference of the NAACP, Latin Business Association, California Common Cause, Howard Jarvis Taxpayers Association, League of California Cities, California Forward, Los Angeles Area Chamber of Commerce, California Planning and Conservation League, and many others,* URGE YOU TO VOTE "YES" ON PROP. 54.

PROP. 54 WILL:

• Require every bill to be posted online *and* distributed to lawmakers at least 72 hours before each house of the Legislature is permitted to vote on it (except when the Governor declares an emergency). • Prohibit any bill passed in violation of this 72-hour requirement from becoming law. • Make audiovisual recordings of *ALL* public legislative meetings. • Post those recordings online within 24 hours, to remain online for at least 20 years. • Guarantee the right of every person to also record and broadcast any open legislative meetings. • Require NO new taxpayer money. The Legislature's existing budget will cover this measure's minor costs.

Proposition 54 makes our state government more transparent by STOPPING THE PRACTICE OF WRITING LAWS PROMOTED BY SPECIAL INTERESTS BEHIND CLOSED DOORS AND PASSING THEM WITH LITTLE DEBATE OR REVIEW.

"We have long opposed the California Legislature's practice of making last minute changes to proposed laws before legislators, the press, and the public have had a chance to read and understand them. Such practices make a mockery of democracy."—*Peter Scheer, FIRST AMENDMENT COALITION*

"Proposition 54 gives all people the opportunity to review, debate, and contribute to the laws that impact us all."—*Alice Huffman, CALIFORNIA STATE CONFERENCE OF THE NAACP*

Proposition 54 will stop the immediate passage of legislation that has been "gutted and amended"—a practice that replaces, at the last minute, *every* word of a bill with new, complex language secretly written by special interests, thereby making major policy changes with no public input.

"Proposition 54 finally gives voters the upper hand, not the special interests, and improves the way business is done at our State Capitol."—*Ruben Guerra, LATIN BUSINESS ASSOCIATION*

Special interests and the political establishment fear voters might track from home what happens in the Legislature's public meetings. Sacramento lobbyists don't believe the people can be trusted with this information—or with time to act on it.

Yet sixty-nine California cities representing 15 million people, and thirty-seven county boards of supervisors representing 27 million people, *already* post recordings of their meetings online.

Our Legislature should catch up.

"Proposition 54 will create a more open, honest, and accountable government. It's time to give voters a voice in the political process."—*Kathay Feng, CALIFORNIA COMMON CAUSE*

CHECK IT OUT FOR YOURSELF at YesProp54.org. YES ON PROP. 54 is supported by good government, minority, taxpayer, and small business groups, seniors, and voters from every walk of life, every political persuasion, and every corner of the state.

PROPOSITION 54 was written by constitutional scholars and has been carefully reviewed and vetted by good government organizations who all agree Prop. 54 *will* increase transparency. That's why special interests vigorously oppose it.

PROPOSITION 54 will reduce special interest influence by ensuring every proposed new law is subject to public review and comment BEFORE legislators vote on it.

Vote YES on Proposition 54.

HELEN HUTCHISON, President
League of Women Voters of California

HOWARD PENN, Executive Director
California Planning and Conservation League

ALLAN ZAREMBERG, President
California Chamber of Commerce

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 54 ★

BIG MONEY IS BEHIND PROP. 54: DON'T BE FOOLED

Just look at its main backer: the California Chamber of Commerce. This group—whose members include big oil, tobacco and drug companies—spent a record-shattering $4.3 MILLION lobbying the Legislature last year, according to the Secretary of State.

Prop. 54 will give these special interests even MORE power in Sacramento.

That's the reason one billionaire, backed by big, out-of-state corporations, is bankrolling Prop. 54.

STAND UP TO BIG MONEY. VOTE NO ON PROP. 54.

California's most significant achievements often occur when our elected representatives come to the table willing to find areas of compromise. Sometimes, powerful special interests don't get everything they want.

One example is the bipartisan 2009 state budget agreement, historic action that saved California from bankruptcy. That bipartisan compromise was updated through the final hours prior to the vote. It earned the four Legislative Leaders that negotiated it the prestigious "Profiles in Courage Award" from the John F. Kennedy Library Foundation.

If Prop. 54 was in place, California might well have gone bankrupt.

The Legislature needs to work better, not be hamstrung by red tape. Prop. 54 unnecessarily requires the Legislature to wait 3 days before passing a measure in its "second house," allowing special interests to defeat it.

California's legislative work is transparent. Any citizen, at any time, can view any bill via the Internet. Audio and video is online free of charge.

VOTE NO ON PROP. 54. STOP THE SPECIAL INTEREST POWER GRAB.

ART TORRES, State Senator (Retired)

JERILYN STAPLETON,
California National Organization for Women (NOW)

STEVE HANSEN, City Council Member
City of Sacramento

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 54 ★

Proposition 54 is on your ballot solely because one California billionaire, after spending millions of dollars trying to influence California policy and elections, is now using our citizen initiative process to pursue his own political agenda.

What is Prop. 54? It is a complicated measure that introduces unnecessary new restrictions on the way laws are crafted by the Legislature. It empowers special interests under the guise of "transparency."

Rather than promoting accountability, Prop. 54 will slow down the ability for legislators to develop bipartisan solutions to our state's most pressing problems.

For example, many bipartisan balanced budget agreements, the Fair Housing Act (which ended housing discrimination), and last year's bond measure to address California's drought likely never would have happened if this measure had been enacted.

Prop. 54 will throw a monkey wrench into the ability of our elected officials to get things done. It will give special interests more power to thwart the will of our elected officials. It makes it more difficult to address state emergencies.

DON'T GIVE SPECIAL INTERESTS EVEN MORE POWER. VOTE NO ON PROP. 54.

While it sounds good, requiring the Legislature to wait three days before voting on a bill will give powerful lobbyists and well-funded special interests time to launch campaigns to attack bipartisan compromises. Special interests already have too much power in Sacramento. Prop. 54 will give them more.

PROP. 54 WILL CAUSE UNNECESSARY DELAYS

Anytime a comma is changed in a bill, lawmakers will now be forced to wait three days to vote on it. That will mean unnecessary delays.

PROP. 54 WILL INCREASE POLITICAL ATTACK ADS

Current law prohibits the use of Legislative proceedings in political campaign ads. Prop. 54 eliminates that rule, paving the way for millions of dollars in ugly campaign attack ads that will flood your screen before each election.

DON'T LET A BILLIONAIRE REWRITE CALIFORNIA'S CONSTITUTION FOR POLITICAL GAIN.

Who's behind this measure? Charles Munger, Jr.—a billionaire with a long history of contributing millions to candidates that oppose increased education funding, the minimum wage, plans to make higher education more affordable, and other progressive issues—is the *only* donor to Prop. 54. He has spent more than $5.5 million to put this measure on the ballot.

Don't let a single wealthy Californian bypass the Legislature to rewrite our state's constitution to his own liking. Even the California Newspaper Publishers Association, which supports many of the concepts in this measure, has told the *Capitol Weekly* newspaper, it "doesn't feel the initiative process is a good way to deal with public policy."

Prop. 54 is opposed by the California Democratic Party, dozens of elected officials, environmental, labor, and other groups.

Vote NO on Prop. 54. Get the facts on *www.NoOnProposition54.com* and follow us on Twitter @NoProp54

STEVEN MAVIGLIO,
Californians for an Effective Legislature

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 54 ★

A bill every legislator and every Californian has had 72 hours to read will be a better bill than one that they haven't.

This shouldn't be a partisan question: it's just common sense.

In 2006 then-Senator Barack Obama sponsored, and then-Senator Hillary Clinton co-sponsored, the "Curtailing Lobbyist Effectiveness Through Advance Notification, Updates, and Posting Act," or "CLEAN UP Act," which called for each bill in the U.S. Senate to be "available to all Members and made available to the general public by means of the Internet for at least 72 hours before its consideration".

What *would* work for the U.S. Senate, *will* work for the California Legislature.

That is why PROP. 54 IS ENDORSED BY A LARGE BIPARTISAN COALITION including the League of Women Voters of California, California Common Cause, California State Conference of the NAACP, League of California Cities, California Chamber of Commerce, Californians Aware, First Amendment Coalition, California Forward, Planning and Conservation League, California Black Chamber of Commerce, California Business Roundtable, National Federation of Independent Business/California, Latin Business Association of California, Hispanic 100, Howard Jarvis Taxpayers Association, California Taxpayers Association, Small Business Action Committee, San Jose/Silicon Valley NAACP, Monterey County Business Council, and the Los Angeles Area, San Francisco and Fresno Chambers of Commerce.

As the *SAN FRANCISCO CHRONICLE* declared about Prop. 54, "Let the record also show that this was no partisan effort. Its advocates include a long list of respected reform groups such as Common Cause, California Forward and the League of Women Voters."

Special interests sit through every committee meeting in Sacramento. *They already know* what bills live and die and why, and who votes with a special interest or against it. The way to level the playing field is to record the public meetings and post them online. Then we too will know.

Prop. 54 requires no new tax money. Prop. 54's minor costs come out of the Legislature's operating budget.

To learn more, see *YesProp54.org.*

Vote YES on Prop. 54.

TERESA CASAZZA, President
California Taxpayers Association
TOM SCOTT, State Executive Director
National Federation of Independent Business/California
KATHAY FENG, Executive Director
California Common Cause

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PROPOSITION

55 TAX EXTENSION TO FUND EDUCATION AND HEALTHCARE. INITIATIVE CONSTITUTIONAL AMENDMENT.

55

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Extends by twelve years the temporary personal income tax increases enacted in 2012 on earnings over $250,000 (for single filers; over $500,000 for joint filers; over $340,000 for heads of household).
- Allocates these tax revenues 89% to K–12 schools and 11% to California Community Colleges.
- Allocates up to $2 billion per year in certain years for healthcare programs.
- Bars use of education revenues for administrative costs, but provides local school boards discretion to decide, in open meetings and subject to annual audit, how revenues are to be spent.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Increased state revenues ranging from $4 billion to $9 billion each year (in today's dollars) from 2019 through 2030, depending on the economy and the stock market.
- Increased funding for schools and community colleges of roughly half of the revenue raised by the measure.
- Increased funding for health care for low-income people ranging from $0 to $2 billion each year, depending on decisions and estimates made by the Governor's main budget advisor.
- Increased budget reserves and debt payments ranging from $60 million to roughly $1.5 billion each year (in today's dollars), depending primarily on the stock market.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

State Budget

Over Half of State Budget Spent on Education. The state collects taxes and fees from people and businesses and uses these revenues to fund programs in the state budget. This year, the state plans to spend about $122 billion from its main operating account, the General Fund. As shown in Figure 1, over half of this spending is for K–12 schools, community colleges, and the state's public universities. About another one-quarter of this spending is for health and human services programs, the largest of which is the state's Medi-Cal program. Most of the spending shown in the figure for "various other programs" pays for prisons, parole programs, and the courts.

Taxes

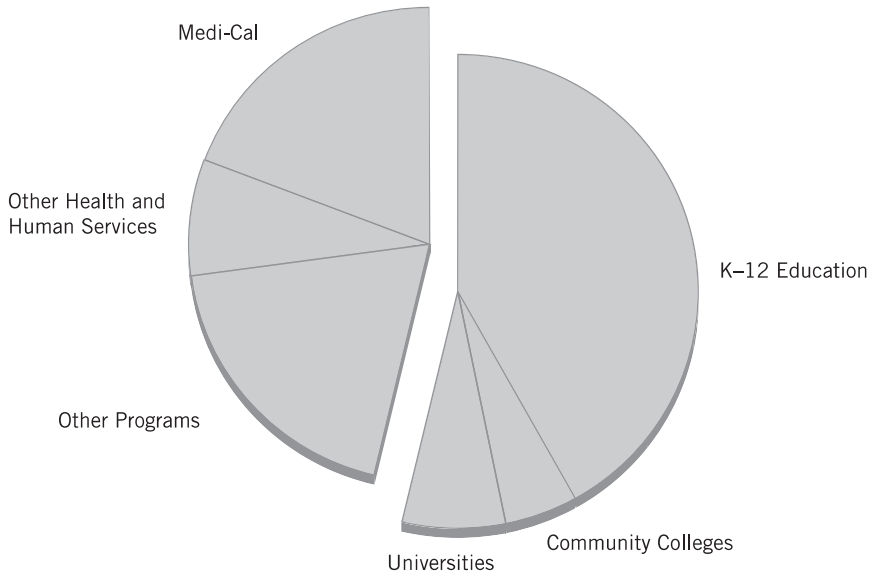
Personal Income Tax Provides Most General Fund Monies. The state's General Fund is supported primarily by three taxes: the personal income tax, the sales tax, and the corporate income tax. (We refer to the personal income tax simply as "income tax" in this analysis.) The income tax is the most important for the state budget, as it provides about two-thirds of all General Fund revenues. The tax applies to most forms of income—such as salaries, wages, interest income, and profits from the sales of stocks and other assets. It consists of several "marginal" tax rates, which are higher as income subject to the tax, or "taxable income," increases. For example, in 2011 the tax on a married couple's taxable income was 1 percent on the first $14,632 but 9.3 percent on all taxable income over $96,058.

Proposition 30. Proposition 30, approved by voters in November 2012, increased income tax rates on high-income taxpayers. As shown in Figure 2, depending on their income levels, high-income taxpayers pay an extra 1 percent, 2 percent, or 3 percent tax on part of their incomes. These higher rates are in effect through 2018. This year's state budget assumes that the Proposition 30 income tax increases will raise about $7 billion in revenue. Proposition 30 also increased the state sales tax rate by one-quarter cent from 2013 through 2016.

Education

Annual Required Spending on Education. The State Constitution requires the state to spend a minimum amount on K–12 schools and community colleges each year. This "minimum guarantee" grows over time based on growth in state tax revenues, the economy, and student attendance. This year, the state

Figure 1
Education Makes Up Over Half of $122 Billion State Budget
2016–17 General Fund



General Fund will provide over $50 billion toward the minimum guarantee. Local property taxes also contribute to the minimum guarantee.

Medi-Cal

Serves Low-Income People in California. The Medi-Cal program provides health care services to low-income people. These services include primary care visits, emergency room visits, surgery, and prescription drugs. The program serves over 13 million people in California—roughly one-third of the population. This year, the state will spend about $23 billion from the General Fund on Medi-Cal. In addition, the program relies heavily on federal funding and receives some support from other state sources.

Budget Reserves and Debt Payments

"Rainy-Day" Reserves. Governments use budget reserves to save money when the economy is good. When the economy gets worse and revenues decline, governments use money that they saved to reduce the amount of spending cuts, tax increases, and other actions needed to balance their budgets.

Constitution Requires Minimum Amount Used for Debt Payments and Budget Reserves. The Constitution requires the state to save a minimum amount each year in its rainy-day fund and spend a minimum amount each year to pay down state debts faster. The annual amounts used for debts and budget reserves depend primarily upon state tax revenues. In particular, revenues from capital gains—money people make when they sell stocks and other types of property—are an important factor in estimating how much the state must use for these purposes.

PROPOSAL

This measure (1) extends for 12 years the additional income tax rates established by Proposition 30 and (2) creates a formula to provide additional funds to the Medi-Cal program from the 2018–19 state fiscal year through 2030–31.

Taxes

Income Taxes Increased on High-Income Taxpayers. Proposition 55 extends from 2019 through 2030

For the full text of Proposition 55, see page 128.

Figure 2

Income Tax Rates Under Proposition 30[a]

Single Filer's Taxable Income[b]	Joint Filers' Taxable Income[c]	Marginal Tax Rate		
		Base Rate	Proposition 30 Increase	Total Rate
$0 to $8,000	$0 to $16,000	1.0%	—	1.0%
8,000 to 19,000	16,000 to 37,000	2.0	—	2.0
19,000 to 29,000	37,000 to 59,000	4.0	—	4.0
29,000 to 41,000	59,000 to 82,000	6.0	—	6.0
41,000 to 52,000	82,000 to 103,000	8.0	—	8.0
52,000 to 263,000	103,000 to 526,000	9.3	—	9.3
263,000 to 316,000	526,000 to 632,000	9.3	1.0%	10.3
316,000 to 526,000	632,000 to 1,053,000	9.3	2.0	11.3
Over 526,000	Over 1,053,000	9.3	3.0	12.3

[a] Income brackets shown are rounded to the nearest thousands of dollars. Brackets are in effect for 2015 and are adjusted for inflation in future years.

[b] Single filers include married individuals and registered domestic partners (RDPs) who file taxes separately.

[c] Joint filers include married and RDP couples who file jointly, as well as qualified widows or widowers with a dependent child.

Note: Income brackets for head-of-household filers are not listed, but those filers with taxable income of $357,981 and greater (as of 2015) also are subject to 10.3 percent, 11.3 percent, or 12.3 percent marginal tax rates under Proposition 30. Tax rates listed exclude the mental health tax rate of 1 percent for taxable income in excess of $1 million.

the Proposition 30 income tax rate increases shown in Figure 2. These increases affect high-income taxpayers in the state. Specifically, the measure affects the roughly 1.5 percent of taxpayers with the highest incomes.

Amount of Tax Increase Depends Upon Taxable Income. The amount of increased taxes paid by high-income taxpayers would depend upon their taxable income. For example, if this measure passes, a single person with taxable income of $300,000 would pay an extra 1 percent on their income between $263,000 and $300,000. This works out to a tax increase of $370 for this person. A married couple filing a joint tax return with taxable income of $2,000,000 also would see their taxes increased under this measure. Specifically, this couple would pay another 1 percent on their income between $526,000 and $632,000, an extra 2 percent on their income between $632,000 and $1,053,000, and an extra 3 percent on their income between $1,053,000 and $2,000,000. This works out to a tax increase of $37,890 for this couple. (These examples would be somewhat different by 2019 because tax brackets would be adjusted annually for inflation.)

Does Not Extend Sales Tax Increase. Proposition 55 does not extend the one-quarter cent increase in the sales tax rate that voters approved in Proposition 30. In other words, whether or not voters pass this measure, Proposition 30's sales tax increase will expire at the end of 2016.

Medi-Cal

Creates Formula for Medi-Cal. Proposition 55 includes a new state budget formula to provide more funding for the Medi-Cal program. The measure requires the Director of Finance, the Governor's main budget advisor, to determine each year from 2018–19 through 2030–31 whether General Fund revenues exceed (1) constitutionally required education spending and (2) the costs of government programs that were in place as of January 1, 2016. If revenues exceed these spending amounts, 50 percent of the excess (up to a maximum of $2 billion) would be allocated to Medi-Cal. (This additional allocation could be reduced somewhat in difficult budget years.) The measure states that these Medi-Cal monies should not replace existing General Fund support for the program.

FISCAL EFFECTS

Figure 3 summarizes Proposition 55's fiscal effects. The measure's increased revenues would be used for K–12 schools and community colleges, health care services for low-income people, budget reserves, and debt payments. After satisfying these constitutional

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

requirements, remaining amounts, if any, would be available for any state budget purpose.

Taxes

Revenue Raised by Measure Would Depend on Economy and Stock Market. The exact amount of state revenue raised by Proposition 55 would depend on several factors that are difficult to predict. A large share of high-income taxpayers' earnings comes from capital gains. These revenues depend heavily on future stock market and other asset values, which are difficult to predict. In addition, high-income taxpayers' earnings fluctuate with the economy. Thus, in a bad economic and stock market year, the measure might raise around $4 billion in revenue. When the economy and stock market are good, the measure might raise around $9 billion in annual revenue. In most years, the amount of revenue raised by the measure would be in between these amounts. (These amounts are in today's dollars and would tend to grow over time.)

Figure 3

Fiscal Effects of Proposition 55

Increased income tax revenues	Between $4 billion and $9 billion each year (in 2016 dollars), depending upon economy and stock market.
Increased funding for schools and community colleges	Roughly half of the revenue raised by the measure.
Increased Medi-Cal funding	Between $0 and $2 billion each year, depending upon decisions and estimates made by the Governor's main budget advisor.
Increased budget reserves and debt payments	Between $60 million and roughly $1.5 billion each year (in 2016 dollars), depending primarily upon stock market.

Education

Increases in Education Spending. Higher state tax revenues generally result in increased education spending. The exact amount that the state must spend on schools and community colleges in the future depends on several factors that are difficult to predict. It is reasonable to assume, however, that roughly half of the revenue raised by Proposition 55 would go to schools and community colleges.

Medi-Cal

May Increase Medi-Cal Funding. The formula for added Medi-Cal funding would require the Director of Finance to estimate annually revenues and spending. As noted earlier, General Fund revenues are difficult to predict. Similarly, in order to produce the spending estimates required by the measure, the Director of Finance would have to make assumptions about how spending on programs that were in place as of January 1, 2016 would have changed over time. Additional Medi-Cal funding under the measure, therefore, would depend on decisions and estimates made by the Director of Finance. The amount of any additional Medi-Cal funding under the measure could vary significantly each year, ranging from $0 to $2 billion.

Budget Reserves and Debt Payments

Increases Budget Reserves and Debt Payments. As described above, Proposition 55 increases state tax revenues. Higher revenues increase required debt payments and budget reserve deposits. The exact amount that the state would have to use for paying down state debts and building budget reserves depends largely on capital gains revenues, which are difficult to predict. In bad stock market years, Proposition 55 could increase debt payments and budget reserves by $60 million. In good stock market years, Proposition 55 could increase debt payments and reserve deposits by $1.5 billion or more.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 55, see page 128.

★ ARGUMENT IN FAVOR OF PROPOSITION 55 ★

Proposition 55 prevents billions in budget cuts without raising taxes by ensuring the wealthiest Californians continue to pay their share. 55 requires strict accountability and transparency to ensure funds get to the classroom. We can't afford to go back to the days of devastating cuts and teacher layoffs.

Fact 1: Proposition 55 does not raise anyone's taxes.

• *Does not raise taxes on anyone.* Proposition 55 maintains the current income tax rate on couples earning over $500,000 a year. • *Only affects the wealthiest Californians who can most afford it,* ensuring they continue to pay their share of taxes. • *Lower sales tax.* Under Proposition 55 all Californians' sales tax are reduced.

Fact 2: Proposition 55 has strict transparency and accountability requirements to ensure education funds get to the classroom.

• *Money goes to local schools and the Legislature can't touch it.* Strict accountability requirements ensure funds designated for education go to classrooms, not to bureaucracy or administrative costs. Authorizes criminal prosecution for any misuse of money. • *Mandatory audits and strict transparency requirements.* Local school districts must post annual accounting online to guarantee that Californians know exactly how and where funds are spent. • *Provides local control over school funding.* Proposition 55 gives control to local school boards to determine student needs.

Fact 3: Proposition 55 prevents up to $4 billion in cuts to schools and continues to restore funding cut during the recession.

• *Proposition 55 helps address California's looming teacher shortage.* The state needs an estimated 22,000 additional teachers next year alone. Proposition 55 gives local school districts the money they need to hire teachers and prevent overcrowded classes. • *Proposition 55 helps restore arts and music.* Arts and music programs faced deep cuts during the recession. Proposition 55 will help protect and restore those programs. • *Makes college more affordable.* Proposition 55 prevents cuts to California community colleges, preventing tuition increases and helping make classes more available to California's 2.1 million community college students. • *Expands health care access for children.* Healthier children are healthier students. Too many families can't afford basic health care, meaning children miss school or come to class sick. Proposition 55 helps kids come to school healthy and ready to learn, because all children deserve access to quality health care, not just the wealthiest Californians.

California needs to keep moving forward, we can't afford to go back to the days of devastating cuts to public schools, colleges, and health care.

30,000 teachers were laid off, class sizes grew, and the cost of community colleges doubled.

Governor Jerry Brown has said that we'll face even more cuts if Proposition 55 doesn't pass.

Proposition 55 gives Californians a clear choice: voting YES protects our schools and children from massive cuts; voting NO costs our schools up to $4 billion a year.

California's schools are starting to come back. Passing Proposition 55 will ensure that our children won't face another round of cuts. The future of California depends on the future of our children.

Because our children and schools matter most.

Details at *www.YesOn55.com*

JUSTINE FISCHER, President
California State PTA

ALEX JOHNSON, Executive Director
Children's Defense Fund—California

TOM TORLAKSON, California State Superintendent of Public Instruction

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 55 ★

TEMPORARY SHOULD MEAN TEMPORARY

Voters supported higher income and sales taxes in 2012 because Governor Jerry Brown made the commitment that they would be temporary.

The state budget has a surplus, and these temporary taxes should go away, just like the Governor promised.

PROP. 55 WILL HURT SMALL BUSINESS AND KILL JOBS.

Prop. 55 will kill jobs, close businesses, and hurt the economy. It will raise taxes on California's small businesses, and make it even harder for them to create good-paying jobs.

WE CAN'T TRUST THE POLITICIANS AND SPECIAL INTERESTS

The politicians and special interests know California is NOT facing cuts to programs. They just want to grow government bigger by passing Prop. 55. And they are using our kids and schools to scare voters into supporting it. Don't be fooled.

SCHOOLS ARE FULLY FUNDED

Education spending has grown by $24.6 billion since 2012—a 52% increase.

Schools are funded, and the state budget is balanced.

We have a $2.7 billion surplus and over $9.4 billion in budget reserves.

Prop. 55's new and higher taxes aren't needed.

DON'T BE FOOLED BY SCARE TACTICS, PROP. 55 IS NOT NEEDED.

Official budget estimates by the state's non-partisan Legislative Analyst show that higher taxes are NOT needed to balance the budget and fully fund schools.

California can fund education, health care and state government without new or higher taxes.

VOTE NO ON PROP. 55

JON COUPAL, President
Howard Jarvis Taxpayers Association

TOM SCOTT, State Executive Director
National Federation of Independent Business—California

TERESA CASAZZA, President
California Taxpayers Association

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 55 ★

In 2012, voters approved Proposition 30 tax increases because we were promised they'd be temporary and end in 2017.

Now special interests want to break that promise and extend these tax hikes 12 more years.

That's *not* temporary.

Here's the official title from the 2012 measure:

Prop. 30: TEMPORARY taxes to fund education, guaranteed local public safety funding. Initiative Constitutional Amendment.

TEMPORARY SHOULD MEAN TEMPORARY

Voters supported higher income and sales taxes in 2012 only because Governor Jerry Brown promised they would be temporary:

"THAT'S A TEMPORARY TAX AND, TO THE EXTENT THAT I HAVE ANYTHING TO DO WITH IT, WILL REMAIN TEMPORARY."—*Governor Brown, Sacramento Bee*, 10/7/14

Governor Brown promised the higher taxes would only last a few years and then end. Now, special interests want to extend them 12 more years—that's not "temporary."

California's economy has recovered and we now have a BUDGET SURPLUS.

WE DON'T NEED HIGHER TAXES

California has a balanced budget, we've reduced debt, increased school spending, put billions into California's "rainy day fund" and still have a $2.7 billion budget surplus.

California takes in more tax dollars than we need each year—that's why the state budget recovered from a $16 billion deficit in 2012 to a $2.7 billion surplus in 2016.

Education spending has soared by $24.6 billion since 2012—a 52% increase.

Medi-Cal spending has increased by $2.9 billion—a 13% increase.

WE CAN FUND EDUCATION, HEALTH CARE, AND STATE GOVERNMENT WITHOUT NEW OR HIGHER TAXES

Governor Brown has stated and budget estimates from the Legislative Analyst show that higher taxes are not needed to balance the budget.

We have adequate funds for schools and other critical requirements—we just need politicians with the backbone to cut waste and prioritize our spending.

What we don't need is the largest tax hike in California history, sending billions more to Sacramento with no accountability to voters.

PROP. 55 TARGETS CALIFORNIA'S SMALL BUSINESSES WITH HIGHER TAXES FOR 12 YEARS

This measure targets small businesses who often pay taxes on their business income through their personal tax return. Prop. 55 will kill jobs, close businesses and damage the economy.

THE SPECIAL INTERESTS JUST WANT MORE MONEY TO SPEND TODAY

It's a fair bet that Prop. 55 money will be spent to pay pension benefits and other state debt rather than making it to the classroom or building roads. It'll be just like the lottery—we'll never know where the money went.

WE CAN'T TRUST THE POLITICIANS AND SPECIAL INTERESTS

The politicians and special interests know California is NOT facing cuts to any programs now. They just want to grow government by passing Prop. 55—the largest state tax increase ever.

Check it yourself: California has a $2.7 billion surplus, and over $9.4 billion in budget reserves.

New and higher taxes aren't needed.

CALIFORNIA SHOULD KEEP ITS WORD: TEMPORARY MEANS TEMPORARY

VOTE NO ON PROP. 55—IT'S A BROKEN PROMISE

JON COUPAL, President
Howard Jarvis Taxpayers Association

TOM SCOTT, State Executive Director
National Federation of Independent Business—California

HON. QUENTIN L. KOPP, Retired Superior Court Judge

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 55 ★

Vote YES on 55. Help our children thrive.

Prop. 55 makes sure we won't go back to massive cuts in school funding. It protects the education and health of our children.

Proposition 55 does not raise anyone's taxes:

• Prop. 55 *maintains current tax rates* on the wealthiest Californians to ensure couples earning more than $500,000 a year continue paying their share. • Proposition 55 does not raise taxes on small businesses. • Under Proposition 55 the state sales tax is reduced as planned at the end of 2016.

Proposition 55 *prevents* up to a $4 billion per year cut in public school funding:

• Proposition 55 helps address the teacher shortage and continues to restore the school funding that was cut during the recession. • California's high school graduation rate rose for the sixth year in a row. Prop. 55 will help continue the progress.

Yes on 55 has strict accountability and fiscal requirements to ensure education funds go straight to the classroom:

• Revenue is guaranteed in the Constitution to go into a special account for schools and children's health care that the *Legislature can't touch.* • Money will be audited every year. Audit findings are posted at *http://trackprop30.ca.gov/* so taxpayers can see how their money is spent. • There are strict requirements that funding must go to the classroom, not administration or Sacramento bureaucracy. • Proposition 55 authorizes criminal prosecution for misuse of money. • The continuation of the current tax rates on the wealthiest is subject to the vote and will of the people.

ERIC C. HEINS, President
California Teachers Association

BETTY T. YEE, California State Controller

ANN-LOUISE KUHNS, President
California Children's Hospital Association

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PROPOSITION

56 CIGARETTE TAX TO FUND HEALTHCARE, TOBACCO USE PREVENTION, RESEARCH, AND LAW ENFORCEMENT. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Increases cigarette tax by $2.00/pack, with equivalent increase on other tobacco products and electronic cigarettes containing nicotine.
- Allocates revenues primarily to increase funding for existing healthcare programs; also for tobacco use prevention/control programs, tobacco-related disease research/law enforcement, University of California physician training, dental disease prevention programs, and administration. Excludes these revenues from Proposition 98 education funding calculation requirements.
- If tax causes decreased tobacco consumption, transfers tax revenues to offset decreases to existing tobacco-funded programs and sales tax revenues.
- Requires biennial audit.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Increased net state revenue of $1 billion to $1.4 billion in 2017–18, with potentially lower annual revenues over time. These funds would be allocated to a variety of specific purposes, with most of the monies used to augment spending on health care for low-income Californians.

ANALYSIS BY THE LEGISLATIVE ANALYST

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BACKGROUND

Cigarette and Tobacco Products

People currently consume different types of cigarette and tobacco products:

- ***Cigarettes.*** Smoking cigarettes is the most common way to use tobacco.
- ***Other Tobacco Products.*** Other tobacco products can be consumed by smoking or other forms of ingestion. These include cigars, chewing tobacco, and other products made of or containing at least 50 percent tobacco.
- ***Electronic Cigarettes (E-Cigarettes).*** These are battery-operated devices that turn specially designed liquid, which can contain nicotine, into a vapor. The vapor is inhaled by the user. Some e-cigarettes are sold with the liquid, while others are sold separately from the liquid.

These products are subject to excise taxes (which are levied on a particular product) and sales taxes (which are levied on a wide array of products). The excise tax is levied on distributors (such as wholesalers) while the sales tax is imposed at the time of purchase. As shown in Figure 1, cigarettes and other tobacco products currently are subject to state and federal excise taxes as well as state and local sales and use taxes (sales taxes). E-cigarettes are only subject to sales taxes.

Existing State Excise Taxes on Cigarettes. The current state excise tax is 87 cents for a pack of cigarettes. Figure 2 shows how the tax has increased over time and how these revenues are allocated for different purposes. Existing excise taxes are estimated to raise over $800 million in 2015–16.

Existing State Excise Taxes on Other Tobacco Products. While excise taxes on other tobacco products are based on the excise tax on a pack of cigarettes, they are somewhat higher due to the provisions of Proposition 10. Currently, the excise taxes on other tobacco products are the equivalent of $1.37 per pack of cigarettes. Revenues from excise taxes on other tobacco products are allocated solely to Proposition 99 (1988) and Proposition 10 (1998) funds for various purposes, as described in Figure 2. Under current law, any increase in cigarette excise taxes automatically triggers an equivalent increase in excise taxes on other tobacco products.

Figure 1

Current Taxes on Tobacco Products and Electronic Cigarettes

	Federal Excise Taxes	State Excise Taxes	State and Local Sales Taxes
Cigarettes	✓	✓	✓
Other Tobacco Products[a]	✓	✓	✓
Electronic Cigarettes[b]			✓

[a] Includes cigars, chewing tobacco, and other products made of or containing at least 50 percent tobacco.

[b] Battery-operated devices that turn specially designed liquid, which can contain nicotine, into vapor.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Figure 2

Allocation of Existing State Cigarette Excise Taxes

(Dollars in Millions)

Funds Description	Current Tax Per Pack of Cigarettes	Estimated 2015–16 Net Revenue[a]
State General Fund: Supports the state budget. The cigarette excise tax allocating revenue to the state General Fund was established by the Legislature in 1959.	10¢	$84
Proposition 99 Funds: Established by the voters in 1988 for the purposes of supporting tobacco education and prevention efforts, tobacco-related disease research programs, health care services for low-income persons, and environmental protection and recreational resources.	25	259[b]
Breast Cancer Fund: Established by the Legislature in 1993 for the purposes of supporting breast cancer screening programs for uninsured women and research related to breast cancer.	2	20
Proposition 10 Funds: Established by the voters in 1998 for the purposes of supporting early childhood development programs.	50	447[b]
Totals	**87¢**	**$810**

[a] Accounts for payments from Proposition 10 to other funds in order to maintain pre-Proposition 10 revenue levels.
[b] Total includes excise tax revenue from other types of tobacco products, such as cigars and chewing tobacco.

Existing Federal Excise Taxes on Tobacco Products. The federal government also levies excise taxes on cigarettes and other tobacco products. Currently, the federal excise tax is $1.01 per pack of cigarettes and varying amounts on other tobacco products.

Existing Sales Taxes on Tobacco Products and E-Cigarettes. Sales taxes apply to the sale of cigarettes, other tobacco products, and e-cigarettes. Sales taxes are based on the retail price of goods, which includes the impact of excise taxes. The average retail price for a pack of cigarettes in California is close to $6. Currently, the sales tax ranges from 7.5 percent to 10 percent of the retail price (depending on the city or county), with a statewide average of around 8 percent. Thus, sales tax adds roughly 50 cents to 60 cents to the total cost for a pack of cigarettes. The sales taxes on cigarettes, other tobacco products, and e-cigarettes raises about $400 million annually, with the proceeds going both to the state and local governments.

Adult Smoking Trends and E-Cigarette Use in California

Most tobacco users in California smoke cigarettes. According to the California Department of Public Health (DPH), California has one of the lowest adult cigarette smoking rates in the country. The DPH reports that about 12 percent of adults smoked cigarettes in 2013, compared to about 24 percent of adults in 1988. While cigarette smoking rates in California have steadily declined over the past couple decades for a variety of reasons, this trend appears to have stalled in recent years according to DPH. As the number of individuals smoking cigarettes in California has decreased, so has the total amount of cigarette purchases by California consumers. As a result, revenues from taxes on these purchases also have declined.

The DPH reports that e-cigarette use among California adults was about 4 percent in 2013, nearly doubling compared to the prior year. Because e-cigarettes are relatively new products, however, there is little information to determine longer-term use of e-cigarettes.

State and Local Health Programs

Medi-Cal. The Department of Health Care Services administers California's Medi-Cal program, which provides health care coverage to over 13 million low-income individuals, or nearly one-third of Californians. With a total estimated budget of nearly $95 billion (about $23 billion General Fund) for 2015–16, Medi-Cal pays for health care services such as hospital inpatient and outpatient care, skilled nursing care, prescription drugs, dental care, and doctor visits. Some of the services provided in the Medi-Cal program are for prevention and treatment of tobacco-related diseases.

Public Health Programs. The DPH administers and oversees a wide variety of programs with the goal of optimizing the health and well-being of Californians. The department's programs address a broad range of health issues, including tobacco-related diseases, maternal and child health, cancer and other chronic diseases, infectious disease control, and inspection of health facilities. Many public health programs and

For the full text of Proposition 56, see page 134.

services are delivered at the local level, while the state provides funding, oversight, and overall strategic leadership for improving population health. For example, the DPH administers the California Tobacco Control Program—a Proposition 99 program—that funds activities to reduce illness and death from tobacco-related diseases with a budget of about $45 million in 2015–16.

Recent Changes in Tobacco-Related Laws

The Legislature recently passed, and the Governor signed in May 2016, new tobacco-related legislation that made significant changes to state law. Figure 3 describes these changes. Also in May 2016, the U.S. Food and Drug Administration (FDA) issued new rules that extend the FDA's regulatory authority to include e-cigarettes, cigars, and other tobacco products. These recent changes do not directly affect the state taxes on these products or the programs that receive funding from these taxes.

State Spending Limit and Minimum Funding Level for Education

The State Constitution contains various rules affecting the state budget. Proposition 4, passed by voters in 1979, establishes a state spending limit. Proposition 98, passed in 1988, establishes a minimum level of annual funding for K–12 education and the California Community Colleges.

PROPOSAL

This measure significantly increases the state's excise tax on cigarettes and other tobacco products and applies this tax to e-cigarettes. The additional revenues would be used for various specified purposes. The major provisions of the measure are described below.

New Taxes Imposed by Measure

Increases Cigarette Tax by $2 Per Pack. Effective April 1, 2017, the state excise tax on a pack of cigarettes would increase by $2—from 87 cents to $2.87.

Raises Equivalent Tax on Other Tobacco Products. As described earlier, existing law requires taxes on other tobacco products to increase any time the tax on cigarettes goes up. Specifically, state law requires the increase in taxes on other tobacco products to be equivalent to the increase in taxes on cigarettes. Accordingly, the measure would raise the tax on other tobacco products also by $2—from $1.37 (the current level of tax on these products) to an equivalent tax of $3.37 per pack of cigarettes.

Imposes New Taxes on E-Cigarettes. As noted above, the state does not currently include e-cigarettes in the definition of other tobacco products for purposes of taxation. The measure changes the definition of "other tobacco products" for purposes of taxation to include e-cigarettes that contain nicotine or liquid with nicotine (known as e-liquid). Changing the definition in this way causes the $3.37 equivalent tax to apply to these products as well.

Figure 3

Recent Changes in Tobacco-Related Laws[a]

Legislation	Subject	Description
Chapter 4 of 2016 (AB2X 7, Stone)	Smoking in the workplace	Expands prohibition on smoking in a place of employment and eliminates various specified exemptions for workplace smoking.
Chapter 5 of 2016 (AB2X 9, Thurmond)	Tobacco use programs	Expands eligibility and requirements of tobacco use prevention funding to include charter schools.
Chapter 6 of 2016 (AB2X 11, Nazarian)	Cigarette and tobacco product licensing: fees and funding	Increases cigarette and tobacco retailer, distributor, and wholesaler licensing fees. Effective January 1, 2017.
Chapter 7 of 2016 (SB2X 5, Leno)	Electronic cigarettes	Broadens the definition of tobacco products to include electronic cigarettes and defines the term smoking, as specified.[b]
Chapter 8 of 2016 (SB2X 7, Hernandez)	Tobacco products: minimum legal age	Increases the minimum age for purchasing tobacco products from 18 years old to 21 years old.

[a] Except when noted in the description, new legislation became effective June 9, 2016.
[b] This broadened definition of tobacco products to include electronic cigarettes does not apply for the purposes of taxation.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

How Would Revenues From New Tobacco and E-Cigarette Taxes Be Spent?

Revenues from the cigarette, other tobacco product, and e-cigarette excise taxes that are increased by this measure would be deposited directly into a new special fund. Revenues deposited in this fund would only be used for purposes set forth in the measure, as described below. (Revenues from applying the $1.37 per pack rate on e-cigarettes, however, would support Proposition 99 and Proposition 10 purposes. This would be new revenue to these funds.)

As shown in Figure 4, the revenues would be allocated as follows:

Figure 4

How New Tax Revenue Would Be Spent

Program or Entity	Amount	Purpose
Step 1: Replace Revenues Lost		
Existing Tobacco Tax Funds	Determined by BOE	Replace revenues lost due to lower tobacco consumption resulting from the excise tax increase.
State and Local Sales and Use Tax	Determined by BOE	Replace revenues lost due to lower tobacco consumption resulting from the excise tax increase.
Step 2: Tax Administration		
BOE—administration	5 percent of remaining funds	Costs to administer the tax.
Step 3: Specific Amounts for Various State Entities[a,b]		
Various state entities—enforcement[c]	$48 million	Various enforcement activities of tobacco-related laws.
UC—physician training	$40 million	Physician training to increase the number of primary care and emergency physicians in California.
Department of Public Health—State Dental Program	$30 million	Educating about preventing and treating dental disease.
California State Auditor	$400,000	Audits of agencies receiving funds from new taxes, at least every other year.
Step 4: Remaining Funds for State Health Programs[a]		
Medi-Cal—DHCS	82 percent of remaining funds	Increasing the level of payment for health care, services, and treatment provided to Medi-Cal beneficiaries. DHCS cannot replace existing state funds for these same purposes with these new revenues.
California Tobacco Control Program—Department of Public Health	11 percent of remaining funds	Tobacco prevention and control programs aimed at reducing illness and death from tobacco-related diseases.
Tobacco-Related Disease Program—UC	5 percent of remaining funds	Medical research into prevention, early detection, treatments, and potential cures of all types of cancer, cardiovascular and lung disease, and other tobacco-related diseases. The UC cannot replace existing state and local funds for this purpose with these new revenues.
School Programs—California Department of Education	2 percent of remaining funds	School programs to prevent and reduce the use of tobacco products by young people.

[a] The measure would limit the amount of revenues raised by the measure that could be used to pay for administrative costs, to be defined by the State Auditor through regulation, to not more than 5 percent.

[b] Predetermined amounts would be adjusted proportionately by BOE annually, beginning two years after the measure went into effect if BOE determines that there has been a reduction in revenues resulting from a reduction in the consumption of cigarette and tobacco products due to the measure.

[c] Funds distributed to Department of Justice/Office of Attorney General ($30 million), Office of Attorney General ($6 million), Department of Public Health ($6 million), and BOE ($6 million).

BOE = Board of Equalization; UC = University of California; and DHCS = Department of Health Care Services.

For the full text of Proposition 56, see page 134.

- ***Step One.*** The measure requires that new revenues raised by the measure first be used to replace revenue losses to certain sources (existing state tobacco funds and sales taxes) that occur as a result of the measure. These revenue losses would occur due to lower consumption of tobacco products due to the higher excise taxes.
- ***Step Two.*** The State Board of Equalization would then receive up to 5 percent of the remaining funds to pay for administrative costs to implement the measure.
- ***Step Three.*** The measure provides specified state entities with fixed dollar amounts annually for specific purposes, as described in Figure 4.
- ***Step Four.*** The remaining funds would be allocated—using specific percentages—for various programs, primarily to augment spending on health care services for low-income individuals and families covered by the Medi-Cal program.

Other Provisions

Required Audits. The California State Auditor would conduct audits of agencies receiving funds from the new taxes at least every other year. The Auditor, who provides independent assessments of the California government's financial and operational activities, would receive up to $400,000 annually to cover costs incurred from conducting these audits.

Revenues Exempt From State Spending Limit and Minimum Education Funding Level. Proposition 56 amends the State Constitution to exempt the measure's revenues and spending from the state's constitutional spending limit. (This constitutional exemption is similar to ones already in place for prior, voter-approved increases in tobacco taxes.) This measure also exempts revenues from minimum funding requirements for education required under Proposition 98.

FISCAL EFFECTS

This measure would have a number of fiscal effects on state and local governments. The major impacts of this measure are discussed below.

Impacts on State and Local Revenues

New Excise Taxes Would Increase State Revenue by Over $1 Billion in 2017–18. This measure would raise between $1.3 billion and $1.6 billion in additional state revenue in 2017–18—the first full year of the

Figure 5

How Estimated Revenues in 2017–18 Would Be Allocated

(In Millions)

	2017–18	
	Low Range[a]	High Range[a]
Estimated revenue from new excise taxes	$1,270	$1,610
Replace revenue loss[b]	230	200
Estimated Net Revenue to Be Allocated	**$1,040**	**$1,410**
Tax Administration		
Board of Equalization—administrative expenses	$50	$70
Specific Amounts Allocated to State Entities		
Various state entities—enforcement	$48	$48
University of California—physician training	40	40
Department of Public Health—State Dental Program	30	30
California State Auditor—audits	—[c]	—[c]
Remaining Funds Allocated to State Health Programs		
Medi-Cal	$710	$1,000
Tobacco Control Program	100	130
Tobacco-Related Disease Program—University of California	40	60
School programs	20	20

[a] The consumer response to the proposed tax increases is uncertain, so we present a range of plausible outcomes. The low-revenue estimate reflects a strong consumer response, while the high-revenue estimate reflects a weaker consumer response.
[b] LAO estimate. Revenue loss replacement amounts would be determined by the Board of Equalization.
[c] $400,000.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

measure's implementation. The excise tax increase would result in higher prices for consumers. As a result, consumers would reduce their consumption of cigarettes and other tobacco products, including e-cigarettes. (Many consumers might also change the way they buy these products to avoid the tax.) The range in potential new revenue reflects uncertainty about how much consumers will reduce their purchases in response to higher prices. The low-range estimate ($1.3 billion) assumes consumers have a stronger response to the tax than under the high-range estimate ($1.6 billion). In future years, revenues may decline relative to 2017–18 due to changes in consumer choices.

Applying Excise Taxes on E-Cigarettes Also Would Generate Additional Revenue for Existing Tobacco Funds. As noted earlier, the measure expands the definition of other tobacco products to include e-cigarettes. This change makes e-cigarettes subject to the taxes passed by voters in Proposition 99 and Proposition 10. As a result, the funds supported by those two propositions would receive additional revenue due to this measure. This additional revenue likely would be in the tens of millions of dollars annually.

Over $1 Billion in Increased Funding in 2017–18, Mostly for State Health Programs. Figure 5 estimates the amount of funding each program and government agency would receive from the new tax revenues in 2017–18. After covering revenue losses resulting from the measure, the revenue available for specific activities funded by the measure—mostly health programs—would be between $1 billion and $1.4 billion. If cigarette use continues to decline, these amounts would be somewhat less in future years. In addition, much of the added spending on health programs would generate additional federal funding to the state. As a result, state and local governments would collect some additional general tax revenue.

Potentially Little Effect on State and Local Sales Tax Revenue. Higher cigarette and other tobacco product prices would increase state and local sales tax revenue if consumers continued to buy similar amounts of these products. However, consumers would buy less of these products as prices increase due to the measure's taxes. As a result, the effect of the measure on sales tax revenue could be positive, negative, or generally unchanged, depending on how consumers react. Under the measure, if the state or local governments received less sales tax revenue as a result of the measure's taxes, those losses would be replaced by the revenue raised by the measure.

Effects on Excise Tax Collection. As described in Figure 4, the measure would provide additional funding to various state agencies to support state law enforcement. These funds would be used to support increased enforcement efforts to reduce tax evasion, counterfeiting, smuggling, and the unlicensed sales of cigarettes and other tobacco products. Such enforcement efforts would increase the amount of tax revenue. The funds also would be used to support efforts to reduce sales of tobacco products to minors, which would reduce revenue collection. As a result, the net effect on excise tax revenue from these enforcement activities is unclear. In addition, while cigarettes and other tobacco products—as currently defined—are covered by federal laws to prevent tax evasion, e-cigarettes are not covered. As a result, enforcement of state excise taxes on e-cigarettes may be more challenging if consumers purchase more of these products online to avoid the new taxes.

Impact on State and Local Government Health Care Costs

The state and local governments in California incur costs for providing (1) health care for low-income and uninsured persons and (2) health insurance coverage for state and local government employees and retirees. Consequently, changes in state law such as those made by this measure that affect the health of the general population would also affect publicly funded health care costs.

For example, as discussed above, this measure would result in a decrease in the consumption of tobacco products as a result of the price increase of tobacco products. Further, this measure provides funding for tobacco prevention and cessation programs, and to the extent these programs are effective, this would further decrease consumption of tobacco products. The use of tobacco products has been linked to various adverse health effects by the federal health authorities and numerous scientific studies. Thus, this measure would reduce state and local government health care spending on tobacco-related diseases over the long term.

This measure would have other fiscal effects that offset these cost savings. For example, state and local governments would experience future health care and social services costs that otherwise would not have occurred as a result of individuals who avoid tobacco-related diseases living longer. Further, the impact of a tax on e-cigarettes on health and the associated costs over the long term is unknown, because e-cigarettes are relatively new devices and the health impacts of e-cigarettes are still being studied. Thus, the net long-term fiscal impact of this measure on state and local government costs is unknown.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 56, see page 134.

★ ARGUMENT IN FAVOR OF PROPOSITION 56 ★

The American Cancer Society Cancer Action Network, American Lung Association in California and American Heart Association are sponsoring Prop. 56 because taxing tobacco saves lives by getting people to quit or never start smoking.

Get the facts at *Yes0n56.org*.

VOTE YES ON PROP. 56 TO KEEP KIDS FROM SMOKING AND REDUCE TOBACCO-RELATED HEALTHCARE COSTS

Tobacco remains a DEADLY, COSTLY product that hurts all Californians—even those who don't smoke.

• Each year, tobacco causes more deaths than guns, car accidents, HIV, alcohol, and illegal drugs combined. Tobacco is the #1 cause of preventable death—killing 40,000 Californians annually. • Each year, tobacco-related healthcare costs Californian taxpayers $3.58 BILLION.

At the same time, Big Tobacco has made billions in profits off California and is still trying to hook future generations into a lifetime of addiction. They know Prop. 56 will prevent youth smoking. *That's* why they'll spend millions of dollars to defeat Prop. 56: to protect their profits at our expense.

PROP. 56 WORKS LIKE A USER FEE, TAXING TOBACCO TO HELP PAY FOR TOBACCO-RELATED HEALTHCARE COSTS

Prop. 56 increases the tax on cigarettes and other tobacco products, including electronic cigarettes.

The only people who will pay are those who use tobacco products, and that money will fund already existing programs to prevent smoking, improve healthcare and research cures for cancer and tobacco-related diseases.

PROP. 56 IS ABOUT FAIRNESS—IF YOU DON'T USE TOBACCO, YOU DON'T PAY

California taxpayers spend $3.58 BILLION every year—$413 per family whether they smoke or not—paying medical costs of smokers. Prop. 56 is a simple matter of fairness—it works like a user fee on tobacco products to reduce smoking and ensure smokers help pay for healthcare costs.

PROP. 56 HELPS PREVENT YOUTH SMOKING

Increasing tobacco taxes reduces youth smoking according to the US Surgeon General. Yet California has one of the lowest tobacco taxes nationwide. This year alone, an estimated 16,800 California youth will start smoking, one-third of whom will die from tobacco-related diseases.

In every state that has significantly raised cigarette taxes smoking rates have gone down. Prop. 56 is so important because it helps prevent youth from becoming lifelong addicts and will save lives for future generations.

PROP. 56 FIGHTS BIG TOBACCO'S LATEST SCHEME TO TARGET KIDS

Electronic cigarettes are Big Tobacco's latest effort to get kids hooked on nicotine. They know that 90% of smokers start as teens. Teens that use e-cigarettes are twice as likely to start smoking traditional cigarettes. That's why every major tobacco corporation now owns at least one e-cigarette brand. Some e-cigarettes even target children with predatory themes like Barbie, Minions and Tinker Bell, and flavors like cotton candy and bubble gum.

Prop. 56 taxes e-cigarettes just like tobacco products, preventing our kids from getting hooked on this addictive, costly, deadly habit.

PROP. 56 INCLUDES TOUGH TRANSPARENCY AND ACCOUNTABILITY MEASURES

Prop. 56 has built-in safeguards, including independent audits and strict caps on overhead spending and administrative costs. And Prop. 56 explicitly prohibits politicians from diverting funds for their own agendas.

SAVE LIVES. VOTE YES ON 56.

JOANNA MORALES, Past Chair of the Board
American Cancer Society, California Division

TAMI TITTELFITZ, R.N., Leadership Board Member
American Lung Association in California

DAVID LEE, M.D., President
American Heart Association, Western States Affiliate

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 56 ★

Prop. 56 was specifically written to financially benefit health insurance companies and other wealthy special interests. It's just one more example of special interest ballot box budgeting. *Over $16 million has already been contributed to pass it.*

They want you to believe it is about helping people stop smoking, but that's not where most of the money goes:

Only 13% of this new tax money goes to treat smokers or stop kids from starting (Section 30130.55(b) of Prop. 56).

82% of this new tax money—$1 billion a year—goes to insurance companies and other wealthy special interests (Section 30130.55(a)) *and they don't have to treat one more patient to get the money.*

Nearly 10% can be spent on administration and overhead (Section 30130.57(a)&(f)).

Prop. 56 has virtually no taxpayer accountability for how health insurance companies and other providers spend the money. CEOs and senior executives could reward themselves with higher pay and profits from our tax dollars.

PROP. 56 CHEATS SCHOOLS

Prop. 56 deceptively cheats schools out of at least $600 million per year by amending the State Constitution to bypass California's minimum school funding guarantee. *In fact, cheating schools is the only reason Prop. 56 amends the Constitution.*

WEALTHY SPECIAL INTERESTS SHOULDN'T GET AWAY WITH USING PROP. 56 TO ENRICH THEMSELVES AT THE EXPENSE OF FUNDING SCHOOLS, FIXING ROADS AND FIGHTING VIOLENT CRIME.

Follow the money for the truth at *www.NoOnProposition56.com* and then please join us in voting NO on Prop. 56.

MIKE GENEST, Former Director
California Department of Finance

TOM BOGETICH, Former Executive Director
California State Board of Education

LEW UHLER, President
National Tax Limitation Committee

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 56 ★

WE ALL WANT TO HELP THOSE WHO WANT TO STOP SMOKING, BUT PROP. 56 IS NOT WHAT IT APPEARS TO BE.

Prop. 56 is a $1.4 billion "tax hike grab" by insurance companies and other wealthy special interests to dramatically increase their profits by shortchanging schools and ignoring other pressing problems.

Prop. 56 allocates just 13% of new tobacco tax money to treat smokers or stop kids from starting. If we are going to tax smokers another $1.4 billion per year, more should be dedicated to treating them and keeping kids from starting.

Instead, most of the $1.4 billion in new taxes goes to health insurance companies and other wealthy special interests, instead of where it is needed.

PROP. 56 CHEATS SCHOOLS OUT OF AT LEAST $600 MILLION PER YEAR.

California's Constitution (through Proposition 98), requires that schools get at least 43% of any new tax increase. Prop. 56 was purposely written to undermine our Constitution's minimum school funding guarantee, allowing special interests to deceptively divert at least $600 million a year from schools to health insurance companies and other wealthy special interests. *Not one penny of the new tax money will go to improve our kids' schools.*

PROP. 56 DOESN'T SOLVE PROBLEMS FACING CALIFORNIA FAMILIES.

We have many pressing problems in California, like fully funding our schools, repairing roads, solving the drought and fighting violent crime. *If we are going to raise taxes, we should be spending this new tax revenue on these problems.*

PROP. 56 FATTENS INSURANCE COMPANY PROFITS.

In another deception, health insurance companies and wealthy special interests wrote Prop. 56 and are spending millions to pass it so that they can get paid as much as $1 billion more for treating the very same Medi-Cal patients they already treat today. *They are not required to accept more Medi-Cal patients to get this money.*

Instead of treating more patients, insurance companies can increase their bottom line and more richly reward their CEOs and senior executives. *In fact, the Prop. 56 spending formula gives insurance companies and other health care providers 82% of this new tax.*

PROP. 56 SPENDS OVER $147 MILLION PER YEAR ON OVERHEAD AND BUREAUCRACY.

This $147 million can be spent each year with virtually no accountability to taxpayers. This could lead to massive waste, fraud, and abuse. *In fact, Prop. 56 spends nearly as much money on administration and overhead as it does on tobacco prevention efforts!*

NO ON PROP. 56

NO to wealthy special interests using our initiative process just to increase their profits.

NO to cheating schools out of at least $600 million per year.

NO to millions of new tax dollars going to overhead and administration with the potential for waste, fraud, and abuse.

NO to rewarding health insurance companies and wealthy special interests with even bigger profits, instead of solving real problems like roads, violent crime and fully funding our schools.

PLEASE READ IT FOR YOURSELF AND FOLLOW THE PROP. 56 MONEY AT:

www.NoOnProposition56.com

Please join us in voting 'NO' on Prop. 56.

TOM BOGETICH, Former Executive Director
California State Board of Education

ARNOLD M. ZEIDERMAN, M.D., M.P.H., FACOG,
Former Director, Maternal Health and Family Planning,
Los Angeles County Department of Health

TOM DOMINGUEZ, President
Association of Orange County Deputy Sheriffs

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 56 ★

VOTE YES ON 56: SAVE LIVES. PROTECT KIDS. REDUCE THE HARMFUL COSTS OF TOBACCO.

Tobacco is still a DEADLY and COSTLY problem.

• Every year, 40,000 Californians die from tobacco-related diseases. • This year alone, 16,800 California kids will start smoking. • Each year, California taxpayers pay $3.58 Billion for tobacco-related healthcare costs. That's $413 per family every year, whether you smoke or not.

"Prop. 56 pays for SMOKING PREVENTION so kids don't get addicted."—*Matthew L. Myers, President, Campaign for Tobacco-Free Kids*

PROP. 56 WORKS LIKE A USER FEE: SMOKERS WILL HELP PAY THEIR FAIR SHARE OF HEALTH CARE COSTS

Under Prop. 56, tobacco users pay to help offset the $3.58 billion in tobacco-related healthcare costs taxpayers pay every year.

Prop. 56 has strong accountability and transparency protections, including strict caps on overhead, ensuring politicians can't divert money for their own personal agendas.

Under Prop. 56, if you don't use tobacco, you don't pay.

This is about FAIRNESS. It's time for tobacco users to help pay for their healthcare costs instead of leaving it to taxpayers to foot the bill.

DON'T BUY BIG TOBACCO'S LIES: PROP. 56 DOESN'T TAKE A DIME FROM SCHOOLS

Tobacco corporations have LIED for years about the dangers of tobacco. Now they are spending tens of millions lying so they can keep getting our children and grandchildren hooked—and protect their bottom line.

"We have carefully vetted Prop. 56. It protects school funding while helping to keep our kids from getting hooked on deadly, addictive tobacco."—*Chris Ungar, President, California School Boards Association*

VOTE YES ON 56.

STUART COHEN, M.D., M.P.H., District Chair
American Academy of Pediatrics, California

LORI G. BREMNER, California Grassroots Director
American Cancer Society Cancer Action Network

ALEX M. JOHNSON, Executive Director
Children's Defense Fund—California

PROPOSITION

57 CRIMINAL SENTENCES. PAROLE. JUVENILE CRIMINAL PROCEEDINGS AND SENTENCING. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Allows parole consideration for persons convicted of nonviolent felonies, upon completion of prison term for their primary offense as defined.
- Authorizes Department of Corrections and Rehabilitation to award sentence credits for rehabilitation, good behavior, or educational achievements.
- Requires Department of Corrections and Rehabilitation to adopt regulations to implement new parole and sentence credit provisions and certify they enhance public safety.
- Provides juvenile court judges shall make determination, upon prosecutor motion, whether juveniles age 14 and older should be prosecuted and sentenced as adults for specified offenses.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Net state savings likely in the tens of millions of dollars annually, primarily due to reductions in the prison population. Savings would depend on how certain provisions are implemented.
- Net county costs of likely a few million dollars annually.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Adult Offenders

The California Department of Corrections and Rehabilitation (CDCR) operates the state prison system. CDCR is responsible for housing adults who have been convicted of felonies identified in state law as serious or violent, as well as certain sex offenses. Examples of violent felonies include murder, robbery, and rape. Examples of serious felonies include certain forms of assault, such as assault with the intent to commit robbery. The department is also responsible for housing individuals convicted of other felonies (such as grand theft) in cases where those individuals have been previously convicted of serious, violent, or certain sex offenses. As of June 2016, there were about 128,000 individuals in state prison. Below, we discuss the sentencing of adult offenders and the use of parole consideration hearings and sentencing credits.

Adult Sentencing. Individuals are placed in prison under an indeterminate sentence or a determinate sentence. Under indeterminate sentencing, individuals are sentenced to prison for a term that includes a minimum but no specific maximum, such as 25-years-to-life. Under determinate sentencing, individuals receive fixed prison terms with a specified release date. Most people in state prison have received a determinate sentence. Individuals in prison have been convicted of a main or primary offense. They often serve additional time due to other, lesser crimes for which they are convicted at the same time. In addition, state law includes various sentencing enhancements that can increase the amount of time individuals serve. For example, those previously convicted of a serious or violent offense generally must serve twice the term for any new felony offense.

Parole Consideration Hearings. After an individual serves the minimum number of years required for an indeterminate sentence, the state Board of Parole Hearings (BPH) conducts a parole consideration hearing to determine whether the individual is ready to be released from prison. For example, BPH would conduct such a hearing for an individual sentenced to 25-years-to-life after the individual served 25 years in prison. If BPH decides not to release the individual from prison, the board would conduct a subsequent hearing in the future. Individuals who receive a determinate sentence do not need a parole consideration hearing to be released from prison at the end of their sentence. However, some of these individuals currently are eligible for parole consideration hearings before they have served their entire sentence. For example, certain individuals who have not been convicted of violent felonies are currently eligible for parole consideration after they have served half of their prison sentence. This was one of several measures put in place by a federal court to reduce the state's prison population.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Sentencing Credits. State law currently allows CDCR to award credits under certain conditions to prison inmates that reduce the time they must serve in prison. The credits are provided for good behavior or for participating in work, training, or education programs. Over two-thirds of inmates are eligible to receive credits. State law limits the amount that inmate sentences can be reduced through credits. For example, more than half of inmates eligible for credits can only reduce their sentences by 15 percent because they have a conviction for a violent offense.

Juvenile Justice

Youths accused of committing crimes when they were under 18 years of age are generally tried in juvenile court. However, under certain circumstances, they can be tried in adult court. Below, we discuss the process for determining whether a youth is tried in juvenile court versus adult court.

Youths in Juvenile Court. Juvenile court proceedings are different than adult court proceedings. For example, juvenile court judges do not sentence a youth to a set term in prison or jail. Instead, the judge determines the appropriate placement and rehabilitative treatment (such as drug treatment) for the youth, based on factors such as the youth's offense and criminal history. About 44,000 youths were tried in juvenile court in 2015.

Counties are generally responsible for the youths placed by juvenile courts. Some of these youths are placed in county juvenile facilities. However, if the judge finds that the youth committed certain significant crimes listed in statute (such as murder, robbery, and certain sex offenses), the judge can place the youth in a state juvenile facility. State law requires that counties generally pay a portion of the cost of housing youths in these state facilities. Youths who are released from a state juvenile facility are generally supervised in the community by county probation officers.

Youths in Adult Court. In certain circumstances, youths accused of committing crimes when they were age 14 or older can be tried in adult court and receive adult sentences. (Individuals accused of committing crimes before they were age 14 must have their cases heard in juvenile court.) Such cases can be sent to adult court in one of the three following ways:

- ***Automatically Based on Seriousness of Crime.*** If a youth is accused of committing murder or specific sex offenses with certain special circumstances that make the crime more serious (such as also being accused of torturing the victim), he or she must be tried in adult court.
- ***At the Discretion of Prosecutor Based on Crime and Criminal History.*** If a youth has a significant criminal history and/or is accused of certain crimes listed in statute (such as murder), a prosecutor can file charges directly in adult court. Prosecutors have this ability in more cases for youths who were age 16 or 17 at the time the crime was committed than for those who were age 14 or 15.
- ***At the Discretion of Judge Based on Hearing.*** A prosecutor can request a hearing in which a juvenile court judge decides whether a youth should be transferred to adult court. For youths who were age 14 or 15 when the crime was committed, the crime must be one of certain significant crimes listed in statute (such as murder, robbery, or certain sex offenses). For youths who were age 16 or 17 when the crime was committed, the prosecutor can seek this hearing for any crime, but typically will only do so for more serious crimes or for youths with a significant criminal history.

Relatively few youths are sent to adult court each year. For example, less than 600 youths were sent to adult court in 2015. Less than 100 youths were sent to adult court at the discretion of a judge based on a hearing. The remainder were sent to adult court automatically based on the seriousness of their crime or at the discretion of a prosecutor based on their crime and/or criminal history.

Youths convicted in adult court when they are under 18 years of age are typically held in a state juvenile facility for the first portion of their sentences. When these youths turn age 18, they are generally transferred to state prison. However, if their sentences are short enough that they are able to complete their terms before turning age 21, they serve their entire sentences in a state juvenile

For the full text of Proposition 57, see page 141.

facility. The state pays the entire cost of housing youths in a state juvenile facility who were convicted in adult court. After completing their sentences, these youths are generally supervised in the community by state parole agents.

PROPOSAL

This measure makes changes to the State Constitution to increase the number of inmates eligible for parole consideration and authorizes CDCR to award sentencing credits to inmates. The measure also makes changes to state law to require that youths have a hearing in juvenile court before they can be transferred to adult court. We describe these provisions in greater detail below.

Parole Consideration for Nonviolent Offenders. The measure changes the State Constitution to make individuals who are convicted of "nonviolent felony" offenses eligible for parole consideration after serving the full prison term for their primary offense. As a result, BPH would decide whether to release these individuals before they have served any additional time related to other crimes or sentencing enhancements.

The measure requires CDCR to adopt regulations to implement these changes. Although the measure and current law do not specify which felony crimes are defined as nonviolent, this analysis assumes a nonviolent felony offense would include any felony offense that is not specifically defined in statute as violent. As of September 2015, there were about 30,000 individuals in state prison who would be affected by the parole consideration provisions of the measure. In addition, about 7,500 of the individuals admitted to state prison each year would be eligible for parole consideration under the measure. Individuals who would be affected by the above changes currently serve about two years in prison before being considered for parole and/or released. Under the measure, we estimate that these individuals would serve around one and one-half years in prison before being considered for parole and/or released.

Authority to Award Credits. The measure also changes the State Constitution to give CDCR the authority to award credits to inmates for good behavior and approved rehabilitative or educational achievements. The department could award increased credits to those currently eligible for them and credits to those currently ineligible. As a result, CDCR could increase the amount of credits inmates can earn, which would reduce the amount of time served in prison.

Juvenile Transfer Hearings. The measure changes state law to require that, before youths can be transferred to adult court, they must have a hearing in juvenile court to determine whether they should be transferred. As a result, the only way a youth could be tried in adult court is if the juvenile court judge in the hearing decides to transfer the youth to adult court. Youths accused of committing certain severe crimes would no longer automatically be tried in adult court and no youth could be tried in adult court based only on the decision of a prosecutor. In addition, the measure specifies that prosecutors can only seek transfer hearings for youths accused of (1) committing certain significant crimes listed in state law (such as murder, robbery, and certain sex offenses) when they were age 14 or 15 or (2) committing a felony when they were 16 or 17. As a result of these provisions, there would be fewer youths tried in adult court.

FISCAL EFFECTS

This measure would have various fiscal effects on the state and local governments. However, the magnitude of these effects would depend on how certain provisions in the measure are interpreted and implemented. As such, our estimates below are subject to significant uncertainty.

Parole Consideration for Nonviolent Offenders

Net State Savings. To the extent nonviolent offenders serve shorter prison terms due to the parole consideration provisions of the measure, it would reduce state costs as the size of the prison population would decline. The level of savings would depend heavily on the number of individuals BPH chose to release. Based on recent BPH experience with parole consideration for certain nonviolent offenders, we estimate that the ongoing fiscal impact of this provision would likely be state savings in the tens of millions of dollars annually. These savings would be offset somewhat by additional costs for BPH to conduct more parole considerations.

The measure would also result in temporary fiscal effects in the near term due to (1) additional savings

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

from the release of offenders currently in prison who would be eligible for parole consideration and (2) an acceleration of parole costs to supervise those individuals who are released from prison earlier than otherwise.

Acceleration of County Costs. Because the measure would result in the early release of some individuals who are supervised by county probation officers following their release from prison, the measure would likely increase the size of the probation population in the near term. In the absence of the measure, counties would have eventually incurred these probation costs in the future.

Sentencing Credits for Prison Inmates

Net State Savings. To the extent CDCR awards individuals with additional credits, the measure would reduce state costs as a result of a lower prison population. Any level of savings is highly uncertain, as it would depend on how much average sentence lengths were reduced by CDCR. If the department granted enough credits to reduce the average time inmates serve by a few weeks, the measure could eventually result in state savings in the low tens of millions of dollars annually. However, the savings could be significantly higher or lower if the department made different decisions. Because the measure could result in the early release of some individuals who are supervised by state parole agents following release, the measure could temporarily increase the size of the parole population. The state, however, would eventually have incurred these parole costs even in the absence of the measure.

Acceleration of County Costs. Because the measure could result in the early release of some individuals who are supervised by county probation officers following their release from prison, the measure could increase the size of the probation population in the near term. In the absence of the measure, counties would have eventually incurred these probation costs in the future.

Prosecution of Youth in Adult Court

Net State Savings. If the measure's transfer hearing requirements result in fewer youths being tried and convicted in adult court, the measure would have a number of fiscal effects on the state. First, it would reduce state prison and parole costs as those youths would no longer spend any time in prison or be supervised by state parole agents following their release. In addition, because juvenile court proceedings are generally shorter than adult court proceedings, the measure would reduce state court costs. These savings would be partially offset by increased state juvenile justice costs as youths affected by the measure would generally spend a greater amount of time in state juvenile facilities. (As noted earlier, a portion of the cost of housing these youths in state juvenile facilities would be paid for by counties.) In total, we estimate that the net savings to the state from the above effects could be a few million dollars annually.

County Costs. If fewer youths are tried and convicted as adults, the measure would also have a number of fiscal effects on counties. First, as discussed above, counties would be responsible for paying a portion of the costs of housing these youths in state juvenile facilities. In addition, county probation departments would be responsible for supervising these youths following their release. Since juvenile court proceedings are generally shorter than adult court proceedings, the above county costs would be partially offset by some savings. For example, county agencies involved in court proceedings for these youths—such as district attorneys, public defenders, and county probation—would experience a reduction in workload. **In total, we estimate that the net costs to counties due to the above effects would likely be a few million dollars annually.**

Other Fiscal Effects

The measure could also affect crime rates in varying ways. On the one hand, if the measure results in offenders spending less time in prison and more time in the community, it could result in these offenders committing additional crimes or crimes sooner than they otherwise would have. On the other hand, the measure could lead to more offenders participating in educational and rehabilitative programs that reduce the likelihood of them committing crimes in the future. The net effect of the above factors is unknown.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 57, see page 141.

★ ARGUMENT IN FAVOR OF PROPOSITION 57 ★

VOTE YES on PROPOSITION 57

California public safety leaders and victims of crime support Proposition 57—the Public Safety and Rehabilitation Act of 2016—because Prop. 57 focuses resources on keeping dangerous criminals behind bars, while rehabilitating juvenile and adult inmates and saving tens of millions of taxpayer dollars.

Over the last several decades, California's prison population exploded by 500% and prison spending ballooned to more than $10 billion every year. Meanwhile, too few inmates were rehabilitated and most re-offended after release.

Overcrowded and unconstitutional conditions led the U.S. Supreme Court to order the state to reduce its prison population. Now, without a common sense, long-term solution, we will continue to waste billions and risk a court-ordered release of dangerous prisoners. This is an unacceptable outcome that puts Californians in danger—and this is why we need Prop. 57.

Prop. 57 is straightforward—here's what it does:

• Saves taxpayer dollars by reducing wasteful spending on prisons. • Keeps the most dangerous offenders locked up. • Allows parole consideration for people with non-violent convictions who complete the full prison term for their primary offense. • Authorizes a system of credits that can be earned for rehabilitation, good behavior and education milestones or taken away for bad behavior. • Requires the Secretary of the Department of Corrections and Rehabilitation to certify that these policies are consistent with protecting and enhancing public safety. • Requires judges instead of prosecutors to decide whether minors should be prosecuted as adults, emphasizing rehabilitation for minors in the juvenile system.

We know what works. Evidence shows that the more inmates are rehabilitated, the less likely they are to re-offend. Further evidence shows that minors who remain under juvenile court supervision are less likely to commit new crimes. Prop. 57 focuses on evidence-based rehabilitation and allows a juvenile court judge to decide whether or not a minor should be prosecuted as an adult.

No one is automatically released, or entitled to release from prison, under Prop. 57.

• To be granted parole, all inmates, current and future, must demonstrate that they are rehabilitated and do not pose a danger to the public. • The Board of Parole Hearings—made up mostly of law enforcement officials—determines who is eligible for release. • Any individuals approved for release will be subject to mandatory supervision by law enforcement.

And as the California Supreme Court clearly stated: parole eligibility in Prop. 57 applies *"only to prisoners convicted of non-violent felonies."*

Prop. 57 is long overdue.

Prop. 57 focuses our system on evidence-based rehabilitation for juveniles and adults because it is better for public safety than our current system.

Prop. 57 saves tens of millions of taxpayer dollars.

Prop. 57 keeps the most dangerous criminals behind bars.

VOTE YES on Prop. 57

www.Vote4Prop57.com

EDMUND G. BROWN JR., Governor of California
MARK BONINI, President
Chief Probation Officers of California
DIONNE WILSON, widow of police officer killed in the line of duty

57

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 57 ★

The authors of Prop. 57 are not telling you the truth. IT APPLIES TO VIOLENT CRIMINALS, will increase crime and make you less safe. Vote NO.

FACT: Prop. 57 authorizes EARLY PAROLE for a RAPIST who drugs and rapes a victim, because its authors call him non-violent.

FACT: Prop. 57 AMENDS CALIFORNIA'S CONSTITUTION to give these new early parole rights to criminals who are convicted of many violent and horrible crimes, including:

RAPE of an unconscious victim; HUMAN SEX TRAFFICKING; ASSAULT with a deadly weapon; LEWD ACTS against a 14-year-old; HOSTAGE TAKING; HATE CRIMES causing injury.

More FACTS:

• Thousands of dangerous criminals have already been released early. We are paying the price. The violent crime rate was up 10% last year and Rape up 37%. • Prop. 57 would authorize the IMMEDIATE RELEASE of thousands of dangerous criminals. • Those previously convicted of MURDER, RAPE and CHILD MOLESTATION would be eligible for early parole. • *Releasing thousands of dangerous criminals will not save money.* In addition to the human costs of increased crime, counties and cities will be forced to hire more police, sheriff deputies, victim counselors and expand courts. • *Prop. 57* overturns important provisions of the Crime Victims Bill of Rights, our 3-Strikes Law and Marsy's Law—strong measures enacted by voters.

The weakening of California's anti-crime laws has gone too far. Don't amend California's Constitution to give even more rights to criminals.

Crime Victims, Police, Sheriffs, Judges and Prosecutors urge a NO vote on 57.

HONORABLE JAMES ARDAIZ, Presiding Judge
5th District Court of Appeal (Ret.)
SANDRA HUTCHENS, Sheriff
Orange County
COLLENE THOMPSON CAMPBELL, Founder
Memory of Victims Everywhere

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 57 ★

Proposition 57 will allow criminals convicted of RAPE, LEWD ACTS AGAINST A CHILD, GANG GUN CRIMES and HUMAN TRAFFICKING to be released early from prison.

That's why *Proposition 57 is OPPOSED by California Law Enforcement—District Attorneys, Sheriffs, Police, Courtroom Prosecutors, Crime Victims and local community leaders.*

Here are the facts:

The authors of Proposition 57 claim it only applies to "non-violent" crimes, but their poorly drafted measure deems the following crimes "non-violent" and makes the perpetrators eligible for EARLY PAROLE and RELEASE into local communities:

• Rape by intoxication • Rape of an unconscious person • Human Trafficking involving sex act with minors • Drive-by shooting • Assault with a deadly weapon • Hostage taking • Attempting to explode a bomb at a hospital or school • Domestic violence involving trauma • Supplying a firearm to a gang member • Hate crime causing physical injury • Failing to register as a sex offender • Arson • Discharging a firearm on school grounds • Lewd acts against a child 14 or 15 • False imprisonment of an elder through violence. *partial list

Here are five more reasons to VOTE NO on 57:

1) 57 authorizes *state government bureaucrats to reduce many sentences for "good behavior," even for inmates convicted of murder, rape, child molestation and human trafficking.* 2) 57 *permits the worst career criminals to be treated the same as first-time offenders,* discounting strong sentences imposed by a judge. 3) "57 effectively *overturns key provisions of Marsy's Law, '3-Strikes and You're Out,' Victims' Bill of Rights, Californians Against Sexual Exploitation Act*—measures enacted by voters that have protected victims and made communities *safer"—Susan Fisher, Former Chairwoman State Parole Board* 4) 57 *forces victims trying to put their lives back together to re-live the crimes committed against them over and over again,* with every new parole hearing. 5) 57 *will likely result in higher crime rates as at least 16,000 dangerous criminals, including those previously convicted of murder and rape, would be eligible for early release.*

Finally, *Prop. 57 places all these new privileges and rights for convicted criminals into the California Constitution,* where they cannot be changed by the Legislature.

Make no mistake. If Prop. 57 passes, every home, every neighborhood, every school will be less safe than it is today.

Ask yourself these questions:

Should a criminal who RAPES AN UNCONSCIOUS PERSON be allowed early release from prison? How about a 50-year old child molester who preys on a child?

Should criminals convicted of HUMAN TRAFFICKING involving sex acts with a child, be allowed back on the streets before serving their full sentence?

Should a criminal who attempts to EXPLODE A BOMB at a hospital, school or place of worship, be allowed to leave prison early?

If you answered NO to these questions, then join District Attorneys, Courtroom Prosecutors, Police, Sheriffs, Crime Victims, Superior Court Judges and community leaders in voting NO on 57.

Violent crime was up 10% last year in California. Don't allow more violent and dangerous criminals to be released early. VOTE NO on 57.

MARTIN HALLORAN, President
San Francisco Police Officers Association
GEORGE HOFSTETTER, President
Association of Los Angeles Deputy Sheriffs
STEPHEN WAGSTAFFE, President
California District Attorneys Association

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 57 ★

YES on Proposition 57

Opponents of Prop. 57 are wrong.

Prop. 57 saves tens of millions of taxpayer dollars by reducing wasteful prison spending, breaks the cycle of crime by rehabilitating deserving juvenile and adult inmates, and keeps dangerous criminals behind bars.

Don't be misled by false attacks. Prop. 57:

• Does NOT automatically release anyone from prison. • Does NOT authorize parole for violent offenders. The California Supreme Court clearly stated that parole eligibility under Prop. 57 applies, *"only to prisoners convicted of non-violent felonies."* (Brown v. Superior Court, June 6, 2016). Violent criminals as defined in Penal Code 667.5(c) are excluded from parole. • Does NOT and will not change the federal court order that excludes sex offenders, as defined in Penal Code 290, from parole. • Does NOT diminish victims' rights. • Does NOT prevent judges from issuing tough sentences.

Prop. 57:

• WILL focus resources on keeping dangerous criminals behind bars. • WILL save tens of millions of taxpayer dollars. • WILL help fix a broken system where inmates leave prison without rehabilitation, re-offend and cycle back into the system. • WILL be implemented through Department of Corrections and Rehabilitation regulations developed with public and victim input and certified as protecting public safety.

San Diego District Attorney Bonnie Dumanis—a Prop. 57 supporter—knows it is imperative to provide inmates with tools to stop the revolving door to prison. (*Daily Journal*, July 14, 2016).

And that makes our communities safer.

Join law enforcement officials, victims of crime and religious leaders: vote YES on Prop. 57.

EDMUND G. BROWN JR., Governor of California
MARK BONINI, President
Chief Probation Officers of California
DIONNE WILSON, widow of police officer killed in the line of duty

PROPOSITION

58 ENGLISH PROFICIENCY. MULTILINGUAL EDUCATION. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Preserves requirement that public schools ensure students become proficient in English.
- Requires school districts to solicit parent and community input in developing language acquisition programs to ensure English acquisition as rapidly and effectively as possible.
- Requires that school districts provide students with limited English proficiency the option to be taught English nearly all in English.
- Authorizes school districts to establish dual-language immersion programs for both native and non-native English speakers.
- Allows parents/legal guardians of students to select an available language acquisition program that best suits their child.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- No notable fiscal effect on school districts or state government.

FINAL VOTES CAST BY THE LEGISLATURE ON SB 1174 (PROPOSITION 58)
(CHAPTER 753, STATUTES OF 2014)

Senate:	Ayes 25	Noes 10
Assembly:	Ayes 53	Noes 26

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

About One in Five California Students Is an English Learner. In 2015–16, about 2.7 million California public school students in the elementary and secondary grades spoke a language other than English at home. Schools classified about 1.4 million of these students as English learners, meaning they were not yet fluent in English. English learners make up 22 percent of all public school students in California. More than 80 percent of English learners in California are native Spanish speakers.

Schools Must Help All Students Learn English. Public schools are required by law to teach English learners how to speak and read in English in addition to teaching them other subjects such as math and science. Across the country, schools tend to teach English learners in either English-only or bilingual programs. In English-only programs, students learn English and other subjects from teachers who speak only in English. In bilingual programs, students learn their subjects from teachers who speak both in English and in their native language. Many bilingual programs are designed to last between three and six years, after which students attend classes taught only in English. Some bilingual programs continue to teach English learners in their native language for at least part of the day even after the students become fluent English speakers.

California Requires Schools to Teach English Learners Mostly in English. In response to some concerns over how English learners were being taught, California voters passed Proposition 227 in 1998. Proposition 227 generally requires English learners to be taught in English and restricts the use of bilingual programs. Proposition 227 generally requires public schools to provide English learners with one year of special, intensive English instruction before transitioning those students into other English-only classes. Proposition 227 remains in effect today.

Schools Can Run Bilingual Programs Under Certain Conditions. Under Proposition 227, parents of English learners must come to school and sign a waiver if they want their children considered for bilingual instruction. Schools may approve these waivers for students meeting one of three conditions: (1) English learners who have attended an English-only classroom for at least 30 days and whose teachers, principal, and district superintendent all agree would learn better in a bilingual program; (2) students who are at least ten years old; or (3) students who are already fluent English speakers. If 20 or more students in any grade get approved waivers, their school must offer a bilingual class or allow students to transfer to a school that has such a class.

Since 1998, Fewer Schools Have Offered Bilingual Programs. The year before Proposition 227 was enacted, about 30 percent of California's English

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

learners were taught in bilingual programs. Ten years later, about 5 percent of California's English learners were taught in bilingual programs.

School Districts and County Offices of Education Must Engage Their Communities in a Yearly Planning Process. The state requires school districts and county offices of education to publish yearly plans describing the services they will provide for certain groups of students, including English learners. Before adopting these plans, school officials must talk to parents and other community members about what types of programs they would like their schools to run.

PROPOSAL

This measure repeals key provisions of Proposition 227 and adds a few new provisions regarding English language instruction, as described below.

Removes Restrictions to Bilingual Programs. Under this proposal, schools would no longer be required to teach English learners in English-only programs. Instead, schools could teach their English learners using a variety of programs, including bilingual programs. In addition, parents of English learners would no longer need to sign waivers before their children could enroll in bilingual programs.

Requires Districts to Respond to Some Parental Demands. While schools generally could design their English learner programs however they wanted, they still would have to provide intensive English instruction to English learners if parents requested it. Additionally, school districts would be required to offer any specific English learner program requested by enough parents. Specifically, if at any school either (1) 20 or more parents of students in any single grade or (2) 30 or more parents overall ask for a specific kind of English learner program, that school would have to offer such a program to the extent possible.

Requires Districts to Talk to Community Members About Their English Learner Programs. This proposal requires school districts and county offices of education to ask parents and other community members how English learners should be taught (for example, by using an English-only or bilingual program). School districts and county offices of education would ask for this feedback as part of their regular yearly planning process. (Some districts likely already discuss these issues in their yearly planning process, but this proposal makes soliciting feedback on these issues a requirement for all districts.)

FISCAL EFFECTS

The measure would have no notable fiscal effect on state government. However, it likely would result in changes to the way some school districts teach English learners. These changes would have little effect on local costs. We discuss the measure's programmatic and fiscal effects on schools below.

Significant Programmatic Impact for Some English Learners. Though the measure generally does not require school districts to change how they teach English learners, it makes starting or expanding bilingual programs easier for all districts. The exact effect of this measure would depend upon how parents and schools respond to it. Over time, bilingual programs could become more common, with some English learners taught in bilingual programs who otherwise would have been taught in English-only programs. For these school districts and students, the programmatic impact of the measure would be significant.

Minor Effect on Schools' Ongoing and One-Time Costs. The bilingual programs created or expanded due to the measure would not necessarily be more or less expensive overall than English-only programs, as annual costs for both types of programs depend mostly on factors like class size and teacher pay. Any school creating a bilingual program would incur some one-time costs for developing new curriculum, purchasing new instructional materials, training teachers on the new curriculum and materials, and informing parents about the program. These costs, however, would not necessarily be added costs, as schools routinely revise curriculum, purchase new materials, train teachers, and keep parents apprised of important school issues.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 58, see page 146.

★ ARGUMENT IN FAVOR OF PROPOSITION 58 ★

PROPOSITION 58 ENSURES ALL STUDENTS CAN ACHIEVE ENGLISH PROFICIENCY AS SOON AS POSSIBLE.

Too many California students are being left behind and not given the opportunity to learn English with the most effective teaching methods possible. This is because of an outdated nearly 20-year-old law, Proposition 227, which restricts the instructional methods school districts can use to teach English.

Proposition 58 revises Proposition 227 to remove these restrictions so schools are able to use the most up-to-date teaching methods possible to help our students learn.

Proposition 58: • Requires local school districts to identify in their annual K–12 Local Control and Accountability Plans the instructional methods they will offer to help ensure all students become proficient in English as rapidly as possible. • Requires schools to offer a structured English immersion program to English learners. But schools also can adopt other language instruction methods based on research and stakeholder input. • School districts must seek input from educators, parents and the community.

PROPOSITION 58 ALSO EXPANDS OPPORTUNITIES FOR ENGLISH SPEAKERS TO LEARN A SECOND LANGUAGE.

Proposition 58 removes barriers hurting students by discouraging schools from expanding multilingual education. Proposition 58 encourages school districts to provide instruction programs so native English speakers can become proficient in a second language:

• School districts must include in their annual K–12 Local Control and Accountability Plans programs giving English-speaking students the opportunity to achieve proficiency in a second language. • District choices of non-English languages must reflect input from parents, the community and the linguistic and financial resources of schools. • Research shows that students participating in programs taught in more than one language attain higher levels of academic achievement.

PROPOSITION 58 RESTORES LOCAL CONTROL TO OUR SCHOOLS.

Proposition 58 allows local school districts to choose the most up-to-date language instruction methods to improve student outcomes free from legal restrictions imposed on them by a decades-old law.

PROPOSITION 58 PROVIDES A BETTER FUTURE FOR OUR CHILDREN AND OUR STATE.

The world economy is changing rapidly. Today, technology allows even the smallest businesses to have a global reach. Students proficient in English and a second language will be more employable, start out earning higher wages, and make California's workforce better prepared to compete for jobs in the global economy.

PROPOSITION 58 HAS BROAD-BASED SUPPORT FROM LOCAL SCHOOL DISTRICTS, EDUCATORS, PARENTS AND EMPLOYERS.

Giving local schools the tools they need to improve outcomes for students is not a partisan or political issue. Proposition 58 was placed on the ballot by a bipartisan vote of the legislature. Support for Proposition 58's common sense reforms to improve language instruction in our schools is broad-based and includes: Local school boards (the California School Boards Association), Teachers (the California Language Teachers' Association, the California Teachers Association, the California Federation of Teachers), Parents (California State PTA), and Employers (including the San Jose/Silicon Valley and Los Angeles Chambers of Commerce).

Proposition 58's reforms allow schools to adopt the most up-to-date methods of language instruction to improve student outcomes and make better use of taxpayer dollars.

More information at *www.SupportProp58.com*.

VOTE YES ON 58.

LENORA LACY BARNES, Senior Vice President
California Federation of Teachers

CHRIS UNGAR, President
California School Boards Association

TANYA ZACCONE, Executive Director
California Language Teachers' Association

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 58 ★

Twenty years ago California schools were forcing hundreds of thousands of children into mandatory Spanish-almost-only classes. Students, their parents, and employers don't want to return to those days, but the bilingual education "lobby" and teacher unions do, and so do the politicians who put Proposition 58 on the ballot.

We are two of the many Legislators who voted against it and urge you to vote NO as well.

In 1998, California voters approved an initiative requiring that children be taught English in our schools, unless their parents disagreed. They did this because children who were not native English speakers were struggling too long in "bilingual" classes and never moving up.

The results have been spectacular. Children are learning English faster than when they were forced into "bilingual programs" that dragged on for years. Because they are learning English faster and at an earlier age, record numbers of immigrant students are gaining admission to our state colleges and universities.

Those supporting Prop. 58 want to change that because these so-called "language teachers" have jobs in our schools only so long as students stay in bilingual classes. The teachers and their unions benefit, but not the children.

Proposition 58 is not about modernizing the way we teach English, it's about forcing a failed method of English instruction on immigrant children against the wishes of their parents.

Proposition 58 eliminates current parental rights to an English-language education for their children.

Vote NO on this deceptive ballot measure.

SHANNON GROVE, Assemblywoman
Bakersfield

JOEL ANDERSON, Senator
San Diego County

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★ ARGUMENT AGAINST PROPOSITION 58 ★

THIS BALLOT MEASURE IS A DISHONEST TRICK BY THE SACRAMENTO POLITICIANS

• The official title of Proposition 58 is "English Language Education." But it actually REPEALS the requirement the children be taught English in California public schools. It's all a trick by the Sacramento politicians to fool the voters, who overwhelmingly passed Proposition 227, the "English for the Children" initiative in 1998. • The worst part of Proposition 58 is hidden away in Section 8, which REPEALS all restrictions on the California Legislature to make future changes. This would allow the Legislature to reestablish SPANISH-ALMOST-ONLY instruction in the public schools by a simple majority vote, once again forcing Latino children into those classes against their parents' wishes. • Teaching English in our public schools is overwhelmingly supported by California parents, whether immigrants or non-immigrants, Latinos or Anglos, Asians or Blacks. That's why the politicians are trying to TRICK the voters by using a DECEPTIVE TITLE.

VOTE NO AND KEEP "ENGLISH FOR THE CHILDREN"—IT WORKS!

• For decades, millions of Latino children were FORCED INTO SPANISH-ALMOST-ONLY CLASSES dishonestly called "bilingual education." It was an educational disaster and never worked. Many Latinos never learned how to read, write, or even speak English properly. • But in 1998, California voters overwhelmingly passed Prop. 227—the "English for the Children" initiative—providing sheltered English immersion to immigrant students and requiring that they be taught English as soon as they started school. • Jaime Escalante of *Stand and Deliver* fame, one of America's most successful teachers led the Prop. 227 campaign as Honorary Chairman, rescuing California Latinos from the Spanish-only educational ghetto. • It worked! Within four years the test scores of over a million immigrant students in California increased by 30%, 50%, or even 100%. • All the major newspapers, even the national *New York Times*, declared the new English immersion system a huge educational success. • The former Superintendent of Oceanside Unified School District announced that he'd been wrong about bilingual education for thirty years and became a leading national advocate for English immersion. • Since "English for the Children" passed, there has been a huge increase in the number of Latinos scoring high enough to gain admission to the prestigious University of California system. • Prop. 227 worked so well in California schools that the whole issue was forgotten by almost everyone except the bilingual education activists. Now they're trying to trick the voters into allowing the RESTORATION OF MANDATORY SPANISH-ALMOST-ONLY CLASSES.

Vote NO, keep "English for the Children," and protect Jaime Escalante's educational legacy for California's immigrant schoolchildren.

For more information, visit our website at *www.KeepEnglish.org*

RON UNZ, Chairman
English for the Children

KENNETH A. NOONAN, Former Superintendent
Oceanside Unified School District

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 58 ★

PROPOSITION 58 ENSURES ALL STUDENTS CAN ACHIEVE ENGLISH PROFICIENCY AS RAPIDLY AS POSSIBLE. PROPOSITION 58 EXPANDS OPPORTUNITIES FOR ENGLISH SPEAKERS TO MASTER A SECOND LANGUAGE.

That's why Proposition 58 is supported by our state's leading educators and parent advocates—classroom teachers, the State PTA, school principals and local school board members—and Governor Jerry Brown.

PROPOSITION 58 IS NOT A "DISHONEST TRICK."

Don't be fooled by opponents' scare tactics. Prop. 58 is NOT a "trick" to abandon English instruction in favor of "mandatory Spanish-almost-only classes." Here's what Prop. 58 actually says:

• School districts must provide their pupils with "effective and appropriate" language acquisition programs "designed to ensure English acquisition as rapidly and as effectively as possible" (Education Code Sections 305(a)(1) and 306(c)). • "All California school children have the right to be provided with a free public education and an English language public education." (Education Code Section 320). • School districts "shall, at a minimum, provide English Learners with a structured English immersion program" (Education Code Section 305(a)(2)).

THE EVIDENCE DOES NOT SUPPORT THE OPPONENTS' CLAIMS. Opponents claim Proposition 227 was wildly successful, but a comprehensive five-year evaluation by the American Institutes for Research concluded "there is no conclusive evidence" to support their claims.

EDUCATORS AND PARENTS ASK YOU TO REJECT OPPOSITION SCARE TACTICS. Under Prop. 58 local school districts will decide—with input from parents, educators and their communities—the most appropriate language instruction approaches for their students to achieve English proficiency as rapidly as possible and expand opportunities for English speakers to master a second language.

SUPPORT OUR CHILDREN AND OUR SCHOOLS. VOTE YES ON 58.

JUSTINE FISCHER, President
California State PTA

TOM TORLAKSON, State Superintendent of Public Instruction

RALPH GOMEZ PORRAS, President
Association of California School Administrators

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PROPOSITION

59 CORPORATIONS. POLITICAL SPENDING. FEDERAL CONSTITUTIONAL PROTECTIONS. LEGISLATIVE ADVISORY QUESTION.

59

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Asks whether California's elected officials should use their authority to propose and ratify an amendment to the federal Constitution overturning the United States Supreme Court decision in *Citizens United v. Federal Election Commission*.
- *Citizens United* ruled that laws placing certain limits on political spending by corporations and unions are unconstitutional.
- States that the proposed amendment should clarify that corporations should not have the same constitutional rights as human beings.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- No direct fiscal effect on state or local governments.

FINAL VOTES CAST BY THE LEGISLATURE ON SB 254 (PROPOSITION 59)
(CHAPTER 20, STATUTES OF 2016)

Senate:	Ayes 26	Noes 12
Assembly:	Ayes 51	Noes 26

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Political Campaign Spending. Many people, corporations, labor unions, and other groups spend money to influence voters' decisions in political campaigns. This spending includes:

- ***Direct Contributions.*** People can give money directly to candidates, political parties, and committees. These direct contributions are subject to federal, state, and local limits. In some cases, federal law does not allow direct contributions. For example, corporations and labor unions may not give money directly to a candidate for a federal office.
- ***Independent Expenditures.*** A person makes an "independent expenditure" if he or she spends money to influence voters with no coordination with a candidate or campaign. For example, a person producing a radio commercial urging people to vote for a candidate is making an independent expenditure if the commercial is made without the involvement of the candidate's campaign.

Independent Expenditures Protected by U.S. Constitution. Before 2010, federal law limited corporations and labor unions' abilities to make independent expenditures in federal elections. Some California local governments had similar laws for local elections. In 2010, the U.S. Supreme Court determined in the *Citizens United* case that independent expenditures made by corporations and labor unions are a form of speech protected under the Constitution. Based on this determination and related

court decisions, government may not limit the right of corporations and labor unions to make independent expenditures. This ruling applies to federal, state, and local governments.

Two-Step Process to Change the Constitution. The Constitution may be changed through a two-step "amendment" process. Under this process, described below, only the Congress, state legislatures, and—if called by the Congress—constitutional conventions have a role in changing the Constitution. Since the Constitution became law in 1789, 33 amendments have been proposed and 27 amendments have been approved through this process.

- ***Step One: The Congress Acts.*** The process to change the Constitution begins with the Congress either (1) proposing changes or amendments to the Constitution or (2) calling a constitutional convention to propose amendments after the state legislatures of at least 34 states have asked for such a convention. No amendment has been proposed by a constitutional convention.
- ***Step Two: The States Act.*** At least 38 states must approve a proposed amendment before it becomes law. Depending on instructions from the Congress, states approve proposed amendments through either the state legislatures or state-level conventions. Historically, only one amendment—the 21st Amendment repealing the prohibition of the sale of alcoholic beverages—has been approved through state-level conventions rather than by state legislatures.

PROPOSAL

Proposition 59 asks if California's elected officials should use all of their constitutional authority—including, but not limited to, amending the Constitution—to:

- Reverse the effects of *Citizens United* and related court decisions.
- Allow the regulation and limitation of political campaign spending.
- Ensure individuals are able to express political views.
- Make clear that corporations should not have the same constitutional rights as people.

Proposition 59 is an advisory measure only. It does not require any particular action by the Congress or the California Legislature.

FISCAL EFFECTS

This measure would have no direct fiscal effect on state and local governments.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 59, see page 148.

★ ARGUMENT IN FAVOR OF PROPOSITION 59 ★

Vote YES on Proposition 59 to help get big money out of politics and restore a government of, by, and for the people.

Corporations and billionaires should not be allowed to continue to buy our elections.

But that's exactly what the United States Supreme Court did in the disastrous *Citizens United v. FEC* ruling. This misguided decision gave corporations the same "rights" as human beings and freed them to spend unlimited amounts of money in our elections. Other recent decisions overturned long-standing laws limiting how much billionaires could spend in an election.

As a result, corporations and their billionaire owners are spending unprecedented amounts of money to tilt the outcomes of our elections in their favor.

Corporations and billionaires should not have a greater voice in our elections than California voters. Corporations spend huge amounts of money to influence election results and make it harder for our voices to be heard.

The Supreme Court was wrong and must be corrected.

Corporations play a vital role in our economy. But corporations aren't people. They don't vote, get sick, or die in wars for our country. The Constitution was written to protect human beings, not corporations. The rights granted to corporations by the Supreme Court allow them to drown out the voices of real people—as voters, consumers, workers, and small business owners.

We The People should have the right to set reasonable limits on the raising and spending of money by candidates and others to influence elections.

Vote YES on Prop. 59 and tell Congress to pass an amendment to the U.S. Constitution that puts an end to this corrosive political spending.

California voters have used ballot measures to instruct and improve our state and local governments before. Prop. 59 allows us to do this on this critical issue.

Real campaign finance reform can only happen with a groundswell of grassroots support from across the country. Let's do our part and vote YES on Proposition 59.

Help send a message to Congress to act now to strengthen our democracy.

Vote YES on Proposition 59.

BEN ALLEN, State Senator

MICHELE SUTTER, Co-Founder
Money Out Voters In

KATHAY FENG, Executive Director
California Common Cause

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 59 ★

Proposition 59 DOES NOTHING.

Even supporters admit that *all this measure does is "send a message to Congress."*

They admit that corporations "play a vital role in our economy."

The Legislature should focus on doing its job and stop putting meaningless measures on the ballot to ask Congress to limit free speech by overturning the Supreme Court.

Corporations give money. Labor unions give money. People give money. They all do it to support candidates they like and oppose candidates they don't.

Supporters of Proposition 59 say the people "should have the right to set reasonable limits on the raising and spending of money by candidates and others to influence elections."

Who decides what those reasonable limits are?

THIS CONGRESS?

THIS LEGISLATURE?

Do you really want politicians currently in office to have the power to silence the voice of people or organizations who want to change the way our government works?

Proposition 59 has NO force of law. It DOES NOTHING.

We've all agreed with many Supreme Court decisions. We've all disagreed with many others.

One thing Democrats, Republicans and Non-Partisan voters CAN agree on is *that the Supreme Court should be above politics* and above picking winners and losers.

Proposition 59 is a political statement by a select few who want to impose their will on the many. Instead of putting do-nothing advisory measures on the ballot, the Legislature should focus on transparency and start doing the people's business.

Vote NO on Proposition 59 . . . It DOES NOTHING . . . IT MEANS NOTHING.

JEFF STONE, State Senator
28th District

K.H. ACHADJIAN, Assemblyman
35th District

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★ ARGUMENT AGAINST PROPOSITION 59 ★

PROPOSITION 59 IS A BIG WASTE OF YOUR TIME AND OUR TAXPAYER DOLLARS.

The LEGISLATURE placed this NON-BINDING ADVISORY measure on the ballot to say they want campaign finance reform and want to curb the power of special interests in Sacramento, but it actually does nothing of the kind. Instead, it argues that *FREE SPEECH SHOULD NOT APPLY TO* small businesses and others who choose to incorporate as a corporation. What this measure fails to accomplish is:

- It FAILS to prohibit or limit corporate contributions to candidates and elected officials.
- It FAILS to prohibit or limit union contributions to candidates or elected officials.
- It FAILS to prohibit or limit corporate contributions to political parties.
- It FAILS to prohibit or limit union contributions to political parties.

Instead, Proposition 59 asks the California members of Congress to change the First Amendment of the United States Constitution. Do you really want THIS CONGRESS to tinker with the FIRST AMENDMENT which guarantees and protects:

- Your right to practice your religion?
- Your right to FREE SPEECH?
- Your right to a FREE PRESS?
- Your right to peaceably assemble and associate with others?
- Your right to petition your government?

Supporters of Proposition 59 argue that "corporations aren't people." But, many Churches are incorporated. Newspapers and Television networks are incorporated. Facebook, Google, and Twitter are incorporated. Even organizations like Common Cause, the League of Women Voters, and the American Civil Liberties Union (ACLU) are incorporated. People shouldn't lose their Constitutional rights just because they choose to become involved in a company or organization that is incorporated.

Our BALLOTS should NOT be clogged with pointless NON-BINDING measures.

This is the first, but if you vote "yes" it surely won't be the last. Instead, your NO VOTE sends a clear message to the Legislature:

- Stop WASTING OUR MONEY—This measure costs taxpayers half a million dollars, or more.
- Stop CLOGGING OUR BALLOT with meaningless measures that DO NOTHING.
- Start DISCLOSING political contributions WITHIN 24 HOURS of receipt year-round.
- Start DOING YOUR JOB. Fix our broken education system. Fix our broken roads. Protect us from crime.

Nobody likes the current state of Politics in America or California. But PROPOSITION 59 is just a "feel-good" measure that does NOTHING to increase disclosure of money being spent in politics.

Please VOTE NO on PROPOSITION 59. IT DOES NOTHING.

JEFF STONE, State Senator
28th District

KATCHO ACHADJIAN, State Assemblyman
35th District

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 59 ★

DON'T BE FOOLED BY THE OPPONENTS' MISLEADING SCARE TACTICS.

Vote YES on Proposition 59 because if we don't overturn the Supreme Court's disastrous *Citizens United* ruling we will NEVER be able to enact the reforms that we need to PREVENT CORPORATIONS AND WEALTHY SPECIAL INTERESTS FROM BUYING OUR ELECTIONS.

Opponents want you to believe that overturning *Citizens United* will affect your First Amendment rights. Only BIG MONEY INTERESTS who want to control our elections have anything to fear from overturning *Citizens United.*

Corporations should not have the same rights as human beings—they should not be allowed to spend unlimited amounts of money to control our elections. BUT THAT IS EXACTLY WHAT THE *CITIZENS UNITED* DECISION LET THEM DO! It struck down limits on corporate and union political spending.

Democrats, Republicans, and independent voters agree that *Citizens United* should be overturned with a constitutional amendment. Vote YES on Proposition 59 to tell Congress to act.

Overturning *Citizens United* will open the way to meaningful campaign finance reform that will return ownership of our elections back to ordinary Americans! Voting YES on Proposition 59 will send a clear message to Congress that We the People want OUR voices heard during elections.

Don't let the opponents fool you—corporations and billionaires should not be allowed to continue to buy our elections.

Vote YES on Proposition 59 to help get big money out of politics and restore a government of, by, and for the PEOPLE.

MARK LENO, State Senator

MICHELE SUTTER, Co-Founder
Money Out Voters In

KATHAY FENG, Executive Director
California Common Cause

PROPOSITION

60 ADULT FILMS. CONDOMS. HEALTH REQUIREMENTS. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Requires performers in adult films to use condoms during filming of sexual intercourse.
- Requires producers of adult films to pay for performer vaccinations, testing, and medical examinations related to sexually transmitted infections.
- Requires producers of adult films to obtain state health license, and to post condom requirement at film sites.
- Imposes liability on producers for violations, on certain distributors, on performers if they have a financial interest in the film involved, and on talent agents who knowingly refer performers to noncomplying producers.
- Permits state, performers, or any state resident to enforce violations.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Likely reduction of state and local tax revenues of several million dollars per year.
- Increased state costs that could exceed $1 million annually to license and regulate adult film production and to enforce workplace health and safety rules. These costs would be offset to some extent by new fee revenue.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

California Is the Leading Adult Film Industry Location. Many adult films are made in the San Fernando Valley of Los Angeles (a long-time center of adult film production) and elsewhere in California. (Adult films are also commonly called "pornography.") A number of media companies produce adult films here, which consumers mostly view over the Internet. Some adult film performers also own businesses that produce, finance, or distribute content. These businesses include websites and social media platforms where the performers promote their own videos and photos.

State Laws Protect Worker Safety and Health. State law imposes a variety of requirements on employers to protect their employees from harm in the workplace. The state Division of Occupational Safety and Health (Cal/OSHA) enforces regulations to protect workers from workplace hazards. A state board, appointed by the Governor, is responsible for adopting and updating these workplace health and safety regulations. Performers and other workers on adult film sets, such as directors and camera operators, may be exposed to a variety of health and safety hazards while working there. These range from typical workplace health and safety issues (like inadequate first aid kits in the workplace) to other risks specific to adult film sets—such as contact with potentially infectious body fluids, especially semen, while making or performing in a film.

Cal/OSHA Already Requires Adult Film Condom Use. Cal/OSHA considers exposure to certain body fluids a workplace hazard. This is because harmful sexually transmitted infections (STIs)—like chlamydia, hepatitis B, and the human immunodeficiency virus (HIV)—spread from infected people to healthy people through contact with blood and certain other body fluids. For this reason, current state regulations generally require employers to provide and ensure that their employees use protective equipment to prevent contact with certain body fluids in the workplace. In enforcing these regulations, Cal/OSHA is requiring performers to use condoms during sex on adult film sets. Cal/OSHA generally enforces these rules by responding to complaints. Over the two-year period of 2014 and 2015, Cal/OSHA cited four production companies for violations of these regulations.

Los Angeles County Law Specifically Requires Adult Film Condom Use. In November 2012, voters in Los Angeles County approved a ballot measure (Measure B) that specifically requires performers to use condoms during sex on adult film sets there.

Industry Practice Varies. Some adult film productions currently require or allow performers to wear condoms. However, despite state and local regulations, other producers and performers prefer to make adult films without condoms or other protective equipment. Parts of the industry instead use regular STI testing that aims to confirm that performers are free of harmful infections.

PROPOSAL

Proposition 60 places in the California Labor Code additional requirements, as summarized in Figure 1, related to workplace health and safety on adult film sets in this state. This measure specifically applies to sexual intercourse on adult film sets "in which performers actually engage in vaginal or anal penetration by a penis."

Clarifies State Labor Code to Specifically Require Condoms. This measure clarifies how some key provisions of existing workplace health and safety

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Figure 1

Proposition 60 Would Place Additional Requirements on Adult Film Industry

- Clarifies existing workplace health and safety rules by adding a specific condom requirement to the California Labor Code.
- Requires adult film producers be licensed and provide information to the state about adult film shoots.
- Expands the time frame for enforcement of some adult film workplace health and safety violations.
- Makes distributors and agents potentially liable for violations of some adult film workplace rules.
- Allows in some cases any California resident to bring a civil lawsuit against producers for some adult film workplace health and safety violations.

rules apply specifically to the adult film industry. It puts into the Labor Code a specific requirement that adult film producers provide condoms and ensure that performers use them (as opposed to the existing, general workplace health and safety regulations about preventing contact with blood and certain other body fluids). This measure states that the condoms do not have to be visible in films distributed to consumers. However, adult film producers would need to be able to prove that performers actually used condoms.

Other Requirements on Adult Film Producers. This proposition requires adult film producers to be licensed by Cal/OSHA every two years and to notify Cal/OSHA whenever they make an adult film. Adult film producers would pay fees to Cal/OSHA to administer these new requirements. In addition, adult film producers would be required to pay for the costs of performers' work-related STI prevention vaccines, STI tests, and medical examinations. The measure also requires adult film producers to keep records showing that they complied with the new requirements.

Expanded Time Frame for Enforcement. Under current law, Cal/OSHA generally has six months from the time of a workplace violation to complete its investigation and issue a citation. The proposition allows enforcement actions for these adult film violations to be started within one year after the violation is or should have been discovered.

Expands Liability for Certain Workplace Health and Safety Violations. In addition to adult film producers, the measure makes adult film distributors and talent agents potentially liable for workplace health and safety violations placed into law by this measure. The measure also sets financial penalties for violations of these requirements.

Allows Individuals to Bring Lawsuits on Regulatory Violations. Under the measure, any California resident could request Cal/OSHA to address some alleged adult film workplace health and safety violations. If Cal/OSHA does not take certain actions within specific time frames, that person could file a civil action against the adult film producer. If the individual prevails, he or she would be able to recover their legal costs and receive 25 percent of any penalties paid by a defendant in such a lawsuit, with the rest being paid to the state. The measure provides that its penalties will not apply to adult film performers or employees, so long as those individuals have no financial interest in a film and are not producers of the film.

FISCAL EFFECTS

Likely Reductions in Tax Revenue. Industry participants would respond to this measure's increased regulatory and enforcement requirements in many ways. Some parts of the adult film industry would comply with the measure while others might choose to relocate outside of California. It is also possible that some adult film producers would try to evade state and local law enforcement while continuing to make adult films here. Adult film wages and business income in California would likely decline and, as a result, the measure would likely reduce state and local tax revenues by several million dollars per year.

Regulatory and Enforcement Costs and Revenues. The ongoing state government costs to implement this law could exceed $1 million annually. Most of the costs would be covered by new fees on adult film producers. Any penalty revenue would be deposited into the state General Fund.

Other Public Budget Effects. The measure could have other fiscal effects on California governments. For example, a reduction in employment in the adult film industry could result in a minor increase in state or local costs for health or social services programs. The measure could also result in fewer transmissions of STIs, which could somewhat reduce state or local costs for publicly funded health programs. Overall, the net effect on publicly funded health and social services programs probably would be minor.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 60, see page 148.

★ ARGUMENT IN FAVOR OF PROPOSITION 60 ★

Nobody should have to risk their health in order to keep their job!

A YES vote for Prop. 60 is a vote to protect California adult film workers from disease. Porn producers refuse to provide a safe workplace for their performers. As a result, thousands of workers have been exposed to serious and life-threatening diseases. *It is time to hold the pornographers accountable for worker safety and health in California's adult film industry.*

Since 1992, the law has required condom use in all adult films produced in California. According to Cal/OSHA, *"Condoms are required to protect adult film workers from exposure to HIV and other sexually transmitted infections."* Prop. 60 closes loopholes in the existing law and improves enforcement so pornographers can more readily be held accountable for the same workplace protection law that applies to every other California industry. Prop. 60 only holds adult film producers, directors, and agents accountable—*not* adult film performers.

The American Medical Association, the American Public Health Association, and other major medical and public health institutions support the use of condoms in adult films. But pornographers blatantly ignore the law. They complain condom use in their films will hurt their profits. They fire and blacklist adult film performers who want to protect themselves with condoms.

When pornographers ignore the law, they expose their workers to HIV, syphilis, chlamydia, gonorrhea, herpes, hepatitis, and human papillomavirus (HPV). Scientific studies show adult film performers are far more likely to get sexually transmitted diseases than the general population. Thousands of cases of diseases—which can spread to the larger community—have been documented within the adult film industry in recent years.

Pornographers say adult film performers are tested for disease. But testing (which the workers must pay for!) is inadequate. It does not effectively identify many sexually transmitted diseases in a timely manner. Condoms provide important additional protections. *Vote YES on Prop. 60 for worker safety!*

We all pay the price because pornographers refuse to play by the rules. The lifetime cost to treat HIV is nearly half a million dollars *per person.* This industry has cost California taxpayers an estimated $10 million in HIV treatment expenses alone. In addition, taxpayers pay hundreds of thousands of dollars each year to treat related diseases.

The need to strengthen existing law is particularly urgent now because the adult film industry is struggling to make profits. As a result, pornographers are more likely than ever to resist condom use. Prop. 60 provides health officials with the enforcement tools they need to help ensure the law is enforced and adult film workers are adequately protected.

Pornographers have taken advantage of young working women and men for too long. Pornographers must not be allowed to continue to violate the law that protects these California workers. This is about fairness and responsibility. Visit *FAIR4CA.org* for more information.

VOTE YES ON PROP. 60!

CYNTHIA DAVIS, M.P.H., Board Chair
AIDS Healthcare Foundation

GARY A. RICHWALD, M.D., M.P.H., Former Director
Los Angeles County Sexually Transmitted Disease Program

DERRICK BURTS, HIV-Positive Former Adult Film Worker

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 60 ★

Prop. 60 is dangerous for workers, and costly to voters like you. This initiative is the only one opposed by all major political parties.

One special interest group has spent millions of dollars drafting Prop. 60 and funding the campaign. Is it a surprise that this special interest group will also profit from the proposition? They will be given authority to file countless lawsuits against workers in adult films and can pocket special fines. Every on-set worker could be sued.

Prop. 60 also gives ANY resident of California the ability to sue adult film performers who produce adult films. Even an injured worker. Can you imagine the potential for abuse and harassment? And the cost. It's no wonder the nonpartisan Legislative Analyst's Office (LAO) estimates a potential cost to California taxpayers of "millions of dollars."

This is what happens when a special interest group spends millions of dollars on a complex thirteen-page initiative: a measure with so many flaws and problems that it negates any positive components. It even weakens current workplace safety.

OPPOSITION to Prop. 60 is growing, including public health and civil rights organizations, such as Equality California, APAC (the largest, independent performer organization) and LA LGBT Center. The CALIFORNIA DEMOCRATIC PARTY and CALIFORNIA REPUBLICAN PARTY oppose Prop. 60.

Prop. 60 is an "all-or-nothing" approach funded by a single special interest group. Worker safety policy should be written with everyone's input. VOTE NO ON PROP. 60.

To learn more, visit Californians Against Worker Harassment at *DontHarassCA.com*

RACHEL "CHANEL PRESTON" TAYLOR, President of the Adult Performer Advocacy Committee

JERE INGRAM, CIH, CSP, FAIHA, former Chair of the California Occupational Safety & Health Standards Board

MARIE LOUISE "NINA HARTLEY" LEVINE, Bachelor of Science in Nursing

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 60 ★

VOTE NO ON PROP. 60: This is what happens when one special interest group has access to millions of dollars to fund a political campaign. This 13-page measure is so poorly drafted it is the only initiative this year OPPOSED by the CALIFORNIA DEMOCRATIC PARTY and the CALIFORNIA REPUBLICAN PARTY. Even the California Libertarian Party opposes Prop. 60.

The proponent wants you to believe it is about worker safety. However, Prop. 60 is OPPOSED by the ONLY independent *all adult film performer* organization in the state, with hundreds of dues paying members. In a letter to the California Secretary of State, the President of the Adult Performer Advocacy Committee, Chanel Preston stated the initiative is dangerous for the health and safety of performers.

Prop. 60 is also OPPOSED by many civil rights and public health organizations, including Equality California, the Transgender Law Center, AIDS Project Los Angeles, the Los Angeles LGBT Center and the San Francisco AIDS Foundation.

Prop. 60 is opposed by business leaders such as the Valley Industry & Commerce Association (VICA).

The proponent wants you to believe this is about worker safety. But this disguises the real impact of the measure: the creation of an unprecedented LAWSUIT BONANZA that will cost taxpayers "millions of dollars" and threatens the safety of performers.

The initiative creates a new *private right of action* authorizing the Proponent AND all 38 MILLION RESIDENTS OF CALIFORNIA to file lawsuits *directly* against those who produce or distribute adult content, which could include adult film performers, even injured performers, on-set crew, and cable and satellite television companies. No other worker in California can be sued this way. VOTE NO ON PROP. 60.

HERE ARE THE FACTS:

- According to California's nonpartisan fiscal advisor Prop. 60 could cost taxpayers "MILLIONS OF DOLLARS" each year; money that could be spent on education, health care, libraries, police and fire services.
- The ultimate trial lawyer ballot measure, Prop. 60 gives EVERY Californian the right to sue those who produce or distribute adult content, which could include adult film performers, including LGBT performers, on-set workers, and cable and satellite television companies. The initiative's presumption of liability could apply to every future California-produced adult film on cable television.
- Prop. 60 could force adult film performers to publicly *disclose private information,* including their legal names and HOME ADDRESSES.
- State employees will have to "review" adult films.
- The named proponent is authorized to be "sworn in" as an agent of the state; only the Legislature can VOTE him out of the position.
- Married couples who distribute films produced in their own homes could be sued.

Prop. 60 will cost taxpayers millions of dollars, could violate worker privacy, and even make the Proponent an agent of the state—indemnified by taxpayers like you.

That's why you should join performers, business leaders, the CALIFORNIA DEMOCRATIC PARTY and CALIFORNIA REPUBLICAN PARTY and VOTE NO ON PROP. 60.

MARK LENO, Senator
11th District

JAY GLADSTEIN, M.D.
Internal Medicine/Infectious Diseases

JESSICA YASUKOCHI, Vice President
Valley Industry & Commerce Association

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 60 ★

Make no mistake about who opposes Prop. 60. It's the greedy porn producers. They routinely put adult film performers' safety and health at risk by forcing them to perform without condoms. Recent studies found that one in four performers have been sick with serious sexually transmitted diseases. *Nobody should have to risk getting a serious disease to keep their job!*

The profits-before-safety lawbreaking in the adult film industry is well documented. California safety and health officials—Cal/OSHA—have issued HUNDREDS OF THOUSANDS OF DOLLARS in citations against nearly two dozen pornographers for violating rules that clearly require condoms in adult films.

But Cal/OSHA officials have frequently been blocked by loopholes and enforcement limitations. Prop. 60 will close the loopholes and strengthen Cal/OSHA's ability to enforce existing law. *This is about fairness and responsibility!*

Prop. 60 is supported by NUMEROUS MEDICAL AND PUBLIC HEALTH ORGANIZATIONS, including:

- California State Association of Occupational Health Nurses
- California Academy of Preventive Medicine
- Southern California Coalition for Occupational Safety and Health
- American College of Obstetricians and Gynecologists—District IX
- American Sexual Health Association
- Beyond AIDS
- California Communities United Institute

Pornographers have abused performers for far too long. Performers need and deserve the same workplace safety and health protections that construction workers, farmworkers, nurses, and millions of other California employees already enjoy.

VOTE YES ON PROP. 60!

JEFFREY KLAUSNER, M.D., M.P.H., Professor
UCLA School of Medicine

PAULA TAVROW, Ph.D., Director
UCLA Bixby Program on Population and Reproductive Health

AMANDA GULLESSERIAN, Founder
International Entertainment Adult Union (IEAU)

PROPOSITION

61 STATE PRESCRIPTION DRUG PURCHASES. PRICING STANDARDS. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Prohibits state agencies from buying any prescription drug from a drug manufacturer at any price over the lowest price paid for the same drug by the United States Department of Veterans Affairs, except as may be required by federal law.
- Applies to any program where the state agency is the ultimate payer for a prescription drug, even if the state agency does not itself buy the drug.
- Exempts purchases of prescription drugs under managed care programs funded through Medi-Cal.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Potential for state savings of an unknown amount depending on (1) how the measure's implementation challenges are addressed and (2) the responses of drug manufacturers regarding the provision and pricing of their drugs.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

The State Payments for Prescription Drugs

State Pays for Prescription Drugs Under Many Different State Programs. Typically, the state pays for prescription drugs under programs that provide health care or health insurance to certain state populations. For example, the state pays for prescription drugs through the health care coverage it provides to the state's low-income residents through the Medi-Cal program and to current and retired state employees. The state also provides and pays for the health care of prison inmates, including their prescription drug costs.

State Pays for Prescription Drugs in a Variety of Ways. In some cases, the state purchases prescription drugs directly from drug manufacturers. In other cases, the state pays for prescription drugs even though it is not the direct purchaser of them. For example, the state reimburses retail pharmacies for the cost of prescription drugs purchased by the pharmacies and dispensed to individuals enrolled in certain state programs.

Annual State Drug Expenditures Totaled Almost $3.8 Billion in 2014–15. As shown in Figure 1, the state spent almost $3.8 billion on prescription drugs in 2014–15 under a variety of state programs. State funds pay for roughly half of overall state prescription drug spending, and the remainder is paid with federal and other nonstate revenues.

Figure 1

Annual State Drug Spending[a]

2014–15, All Fund Sources

Agency/Program	Population Served	Drug Spending[b] (In Millions)
Medi-Cal	State's low-income residents	$1,809[c]
Public Employees' Retirement System	Public employees, dependents, and retirees	1,328[d]
University of California	Students, clinics, and hospital patients	334
Corrections	Inmates	211
Public Health	Underinsured individuals who are HIV-positive	57
State Hospitals	State hospital patients	35
Developmental Services	Developmental center residents	8
California State University	Students	4
Total		**$3,786**

[a] Figure excludes some state agencies or programs with relatively small prescription drug spending amounts.
[b] Amounts listed generally account for any discounts or rebates that lower the agencies' or programs' prescription drug spending.
[c] Amount does not include Medi-Cal managed care drug spending.
[d] Amount excludes expenditures on behalf of local public employees.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Prescription Drug Pricing in General

Prices Actually Paid Often Differ From the Drugs' "List Prices." Prescription drugs sold in the United States have list prices that are similar to the manufacturer's suggested retail price (MSRP) for automobiles. Purchasers of the drugs typically negotiate the prices and often receive discounts. As a result, the final price paid for a prescription drug is typically lower than its list price.

Different Payers Often Pay Different Prices for the Same Prescription Drug. Often there is no single price paid by all payers for a particular prescription drug. Instead, different payers may regularly pay different prices for the same drug, which reflects the results of negotiations between the drugs' buyers and sellers. For example, two different insurance companies may pay different prices for the same drug, as may two separate state agencies such as the California Department of Health Care Services (DHCS) and the California Department of Public Health.

Prices Paid for Prescription Drugs Are Often Subject to Confidentiality Agreements. Prescription drug purchase agreements often contain confidentiality clauses that are intended to prohibit public disclosure of the agreed prices. As a result, the prescription drug prices paid by a particular entity, including a government agency, may be unavailable to the public.

State Prescription Drug Pricing

State Strategies to Reduce Prescription Drug Prices. California state agencies pursue a variety of strategies to reduce the prices they pay for prescription drugs, which typically involve negotiating with drug manufacturers and wholesalers. The particular strategies vary depending on program structure and the manner in which the state programs pay for drugs. For example, multiple California state departments jointly negotiate drug prices with manufacturers. By negotiating as a single, larger entity, the participating state departments are able to obtain lower drug prices. Another state strategy is to negotiate discounts from drug manufacturers in exchange for reducing the overall administrative burden on doctors prescribing these manufacturers' drugs.

United States Department of Veterans Affairs (VA) Prescription Drug Pricing

VA Provides Health Care to Veterans. The VA provides comprehensive health care to approximately nine million veterans nationwide. In doing so, the VA generally purchases the prescription drugs that it makes available to VA health care beneficiaries.

Programs to Reduce Federal Prescription Drug Expenditures. The federal government has established discount programs that place upper limits on the prices paid for prescription drugs by selected federal payers, including the VA. These programs generally result in lower prices than those available to private payers.

VA Obtains Additional Discounts From Drug Manufacturers or Sellers. On top of the federal discount programs described above, the VA often negotiates additional discounts from drug manufacturers or sellers that lower its prices below what other federal departments pay. Manufacturers or sellers provide these discounts in return for their drugs being made readily available to VA patients.

VA Publishes Some of Its Prescription Drug Pricing Information. The VA maintains a public database that lists the prices paid by the VA for most of the prescription drugs it purchases. According to the VA, however, the database may not display the lowest prices paid for some of the drugs for which the VA obtains additional negotiated discounts. The VA may not publish this pricing information in the database due to confidentiality clauses that are included in certain drugs' purchase agreements and are intended to prohibit public disclosure of the negotiated prices.

PROPOSAL

Measure Sets an Upper Limit on Amount State Can Pay for Prescription Drugs. This measure generally prohibits state agencies from paying more for a prescription drug than the lowest price paid by the VA for the same drug after all discounts are factored in for both California state agencies and the VA.

For the full text of Proposition 61, see page 154.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Measure Applies Whenever the State Is the Payer of Prescription Drugs. The measure's upper limit on state prescription drug prices applies regardless of how the state pays for the prescription drugs. It applies, for example, whether the state purchases prescription drugs directly from a manufacturer or instead reimburses pharmacies for the drugs they provide to enrollees of state programs.

Measure Exempts a Portion of the State's Largest Health Care Program From Its Drug Pricing Requirements. The state's Medi-Cal program offers comprehensive health coverage to the state's low-income residents. The state operates Medi-Cal under two distinct service delivery systems: the fee-for-service system (which serves approximately 25 percent of Medi-Cal enrollees) and the managed care system (which serves approximately 75 percent of enrollees). While the measure applies to the fee-for-service system, it exempts the managed care system from its drug pricing requirements described above.

DHCS Required to Verify That State Agencies Are Complying With Measure's Drug Pricing Requirements. The measure requires DHCS to verify that state agencies are paying the same or less than the lowest price paid by the VA on a drug-by-drug basis.

61

FISCAL EFFECTS

By prohibiting the state from paying more for a prescription drug than the lowest price paid by the VA, there is the potential for the state to realize reductions in its drug costs. There are, however, major uncertainties concerning (1) the implementation of the measure's lowest-cost requirement and (2) how drug manufacturers would respond in the market. We discuss these concerns below.

Potential Implementation Challenges Create Fiscal Uncertainty

Some VA Drug Pricing Information May Not Be Publicly Accessible. The measure generally requires that the prescription drug prices paid by the state not exceed the lowest prices paid by the VA on a drug-by-drug basis. As mentioned above, the VA's public database information on the prices of the prescription drugs it purchases does not *always* identify the lowest prices the VA pays. This is because, at least for some drugs, the VA has negotiated a lower price than that shown in the public database and is keeping that pricing information confidential. It is uncertain whether the VA could be nonetheless required to disclose these lower prices to an entity—such as DHCS—requesting such information under a federal Freedom of Information Act (FOIA) request. A FOIA exemption covering trade secrets and financial information may apply to prevent the VA from having to disclose these currently confidential prices to the state.

Confidentiality of VA Drug Prices Could Compromise the State's Ability to Implement the Measure. If the VA is legally allowed to keep some of its prescription drug pricing information confidential, DHCS would be unable to assess in all cases whether state agencies are paying less than or equal to the lowest price paid by the VA for the same drug. This would limit the state's ability to implement the measure as it is written. However, to address challenges in implementing laws, courts sometimes grant state agencies latitude to implement laws to the degree that is practicable as long as implementation is consistent with the laws' intent. For example, courts might allow the state to pay for drugs at a price not exceeding the lowest *known* price paid by the VA, rather than the actual lowest price, to allow the measure to be implemented.

Potential Confidentiality of Lowest VA Drug Prices Reduces but Does Not Eliminate Potential State Savings. The potential confidentiality of at least some of the lowest VA prices reduces but does not eliminate the measure's potential to generate savings related to state prescription drug spending. Though pricing information may be unavailable for some of the VA's lowest-priced prescription drugs, publicly available VA drug prices have historically been lower than the prices paid by some California state agencies for some drugs. To the extent that the VA's publicly available drug prices for particular drugs are lower than those paid by California state agencies and manufacturers choose to offer these prices to the state, the measure would help the state achieve prescription drug-related savings.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Potential Drug Manufacturer Responses Limit Potential Savings

Drug Manufacturer Responses Under Measure Could Significantly Affect Fiscal Impact. In order to maintain similar levels of profits on their products, drug manufacturers would likely take actions that mitigate the impact of the measure. A key reason why drug manufacturers might take actions in response to the measure relates to how federal law regulates state Medicaid programs' prescription drug prices. (Medi-Cal is California's Medicaid program.) Federal law entitles all state Medicaid programs to the lowest prescription drug prices available to most public and private payers in the United States (excluding certain payers, such as the VA). If certain California state agencies receive VA prices, as the measure intends, this would set new prescription drug price limits at VA prices for *all* state Medicaid programs. As a result, the measure could extend the VA's favorable drug prices to health programs serving tens of millions of additional people nationwide, placing added pressure on drug manufacturers to take actions to protect their profits under the measure.

Below are two possible manufacturer responses. (We note that manufacturers might ultimately pursue both strategies, while at the same time offering some drugs at favorable VA prices.)

- ***Drug Manufacturers Might Raise VA Drug Prices.*** Knowing that the measure makes VA prices the upper limit for what the state can pay, drug manufacturers might choose to raise VA drug prices. This would allow drug manufacturers to continue to offer prescription drugs to state agencies while minimizing any reductions to their profits. Should manufacturers respond in this manner, potential savings related to state prescription drug spending would be reduced.
- ***Drug Manufacturers Might Decline to Offer Lowest VA Prices to the State for Some Drugs.*** The measure places no requirement on drug manufacturers to offer prescription drugs to the state at the lowest VA prices. Rather, the measure restricts actions that the *state* can take (namely, prohibiting the state from paying more than the lowest VA prices for prescription drugs). Therefore, if manufacturers decide it is in their interest not to extend the VA's favorable pricing to California state agencies (for example, to avoid consequences such as those described above), drug manufacturers could decline to offer the state some drugs purchased by the VA. In such cases, these drugs would be unavailable to most state payers. Instead, the state would be limited to paying for drugs that either the VA does not purchase or drugs that manufacturers will offer at the lowest VA prices. (However, to comply with federal law, Medi-Cal might have to disregard the measure's price limits and pay for prescription drugs regardless of whether manufacturers offer their drugs at or below VA prices.) This manufacturer response could reduce potential state savings under the measure since it might limit the drugs the state can pay for to those that, while meeting the measure's price requirements, are actually more expensive than those currently paid for by the state.

Summary of Overall Fiscal Effect

As discussed above, if adopted, the measure could generate annual state savings. However, the amount of any savings is highly uncertain as it would depend on (1) how the measure's implementation challenges are addressed and (2) the uncertain market responses of drug manufacturers to the measure. As a result, the fiscal impact of this measure on the state is unknown. It could range from relatively little effect to significant annual savings. For example, if the measure lowered total state prescription drug spending by even a few percent, it would result in state savings in the high tens of millions of dollars annually.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 61, see page 154.

★ ARGUMENT IN FAVOR OF PROPOSITION 61 ★

Drug companies making enormous profits from people's illnesses and misery isn't just a moral issue. Skyrocketing prescription drug prices are a matter of life and death. More Americans die of hepatitis C than from all other infectious diseases—EVEN THOUGH THERE'S A CURE. One reason? The drug company that controls it charges *more than $1,000 per pill,* out of most patients' reach.

That's not the only outrageous example of drug-company price-gouging:

• The price of a common infection-fighting pill was raised overnight from $13.50 to $750—*nearly a 5000% increase.* • *The average annual cost of widely-used specialty drugs is estimated at $53,000*—greater than the nation's median household income ($52,000) and almost 3 1/2 times larger than average annual Social Security benefits of $15,000. • One cancer drug costs *$300,000 a year.*

The drug companies put profits over people, returns for stockholders over cures for patients. What good are miraculous, life-saving medications, if they're priced so high patients can't afford them—and thousands are dying as a result?

Proposition 61, The California Drug Price Relief Act, fights back against the drug companies' price-gouging. And it is expected to save lives. Here's how it would work: The Act would require the State of California to negotiate with drug companies for prices that are no more than the amounts paid for the same drugs by the U.S. Dept. of Veterans Affairs (DVA).

Why the Dept. of Veterans Affairs? Because unlike Medicare, the DVA negotiates for drug prices, and pays on average 20–24% less for medications than other government agencies, up to 40% less than Medicare Part D. The Drug Price Relief Act empowers the State of California, as the healthcare buyer for millions of Californians, to negotiate the same or even better deals for taxpayers, which could save billions in healthcare costs.

Drug companies are planning to spend $100 million to fight this measure *because they know it would cause downward pressure on ALL drug prices*—and cut into their excessive profits.

Don't just take our word for it, a publication for drug executives called Prop. 61 *"GROUND ZERO"* in the national fight for lower drug prices, warning:

"If the voters of California approve this proposition . . . [it] would no doubt cause an immediate demand for the same VA discount rate to be made available to other states, the federal government, and likely private [health plan] entities, as well. *IN SHORT [IT] WOULD BE A PRICING DISASTER FOR THE ENTIRE U.S. DRUG INDUSTRY."*

But a "pricing disaster" for drug companies would equal price relief for hard-pressed consumers.

Prop. 61 is strongly supported by the 86,000-member California Nurses Association—the largest healthcare-provider organization in the state; AARP, the largest retirees' group in California, with 3.3 million members; the Urban League; the Campaign for a Healthy California, including many labor unions; Progressive Democrats of America; Sen. Bernie Sanders; former U.S. Labor Secretary Robert Reich; and many others.

JOIN US IN FIGHTING AGAINST HIGH DRUG PRICES AND DRUG COMPANY GREED. VOTE YES ON PROPOSITION 61. For more information, go to *www.StopPharmaGreed.com.*

ZENEI CORTEZ, RN, Co-President
California Nurses Association/National Nurses Organizing Committee

NANCY McPHERSON, State Director
AARP California

SENATOR ART TORRES (Ret.), Chair
California Democratic Party (1996–2009)

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★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 61 ★

Leading experts have rejected proponents' claim that Prop. 61 would somehow reduce drug prices. In fact, EXPERTS WARN PROP. 61 WILL INCREASE DRUG PRICES.

The *California Medical Association*, the state's foremost medical organization representing 41,000 doctors, says:

"While California's physicians are profoundly concerned about the affordability of prescription drugs, we evaluated this measure and have concluded it is deeply flawed and unworkable. We believe the measure would likely increase—not lower—state prescription drug costs."

The highly-respected, independent *California State Legislative Analyst* says Prop. 61 *"could raise (state) spending on prescription drugs."*

The *California Taxpayers Association* opposes Prop. 61 because it would impose new bureaucracy and red tape, and cause countless lawsuits—COSTING TAXPAYERS MILLIONS.

The *Veterans of Foreign Wars (VFW)*, Department of California urges NO on 61 because it could jeopardize special discounts given to the U.S. Department of Veterans Affairs and INCREASE DRUG PRICES FOR VETERANS.

Who's behind this measure?

Prop. 61 was written by Michael Weinstein, president of an organization that brings in $1 billion annually selling prescription drugs and operating HMOs. His group is spending millions to fund the campaign. But he exempted his own organization from its drug pricing provisions. He shouldn't ask Californians to approve a flawed initiative he isn't willing to comply with himself.

Prop. 61 is OPPOSED BY MORE THAN 100 CALIFORNIA ORGANIZATIONS, including:

• Vietnam Veterans of America, California State Council • California Taxpayers Association • Veterans of Foreign Wars (VFW), Dept. of California • California NAACP • American Congress of Obstetricians and Gynecologists (ACOG)—District IX/CA • California Medical Association

Prop. 61 is deeply flawed and costly. Vote NO.

www.NoProp61.com

STEVE MACKEY, President
Vietnam Veterans of America, California State Council

WILLIAM M. REMAK, Chairman
California Hepatitis C Task Force

ALICE A. HUFFMAN, President
California NAACP

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 61 ★

Proposition 61 is a deeply flawed and costly scheme that is not what it seems.

Prop. 61 was written and is being promoted by Michael Weinstein, the controversial president of an organization that brought in more than $1 billion selling prescription drugs and HMO policies. Suspiciously, he exempted his own HMO from having to comply with the measure he wrote and is promoting.

• The *Veterans of Foreign Wars, Department of California* warns Prop. 61 would harm veterans. • The *California Medical Association*, representing 41,000 doctors, warns Prop. 61 would reduce patient access to medicines. • The *California Taxpayers Association* warns Prop. 61 would impose new bureaucracy, red tape and lawsuits—costing taxpayers millions.

PROP. 61 DOES NOT APPLY TO 88% OF CALIFORNIANS. BUT IT NEGATIVELY IMPACTS ALL CALIFORNIANS

The proposition only covers an arbitrary group of patients in certain state government programs, including some government employees and state prisoners. More than 88% of Californians are excluded. More than 10 million Medi-Cal low-income patients, 20 million Californians with private health insurance and Medicare, and millions of others—*ALL EXCLUDED*.

PROP. 61 COULD INCREASE PRESCRIPTION DRUG COSTS FOR VETERANS

The US Department of Veterans Affairs receives special discounts on prescription drugs for veterans. This measure could result in eliminating these discounts and increasing prescription drug prices for veterans. That's why the measure is opposed by more than a dozen veteran groups, including:

- *Veterans of Foreign Wars, Department of California*
- *Vietnam Veterans of America, California State Council*
- *American Legion, Department of California*
- *AMVETS, Department of California*

DOCTORS AND PATIENT ADVOCATES SAY PROP. 61 WOULD DISRUPT ACCESS TO NEEDED MEDICINES

Prop. 61 would result in a new bureaucratic prior approval process that would interfere with patient access to needed medicines.

Leading health groups oppose Prop. 61, including:

• *California Medical Association* • *American Congress of Obstetricians and Gynecologists (ACOG)—District IX/CA* • *Ovarian Cancer Coalition of Greater California*

PROP. 61 WOULD LIKELY INCREASE STATE PRESCRIPTION DRUG COSTS

Prop. 61 would result in the elimination of drug discounts the state currently receives—increasing state prescription costs by tens of millions annually. The state's nonpartisan Legislative Analyst says the measure could raise state spending on many prescription drugs.

INCREASED BUREAUCRACY, RED TAPE AND HIGHER TAXPAYER COSTS

The California Taxpayers Association opposes Prop. 61. The measure is completely vague on how it would be implemented. Passage of this measure would result in more government bureaucracy, red tape and lawsuits as state agencies struggle to implement it—costing taxpayers millions.

PROMOTER WROTE IN SPECIAL PROVISIONS FOR HIS OWN ORGANIZATION

The proponent exempted his billion dollar operation and wrote in provisions giving him a special right to engage in lawsuits regarding this measure. This provision requires California taxpayers to pay his lawyers—a virtual blank check.

Proposition 61 is yet another example of a misleading and costly ballot measure. It would hurt veterans; jeopardize patient access to needed medicines; increase state prescription costs; and add more bureaucracy, red tape and lawsuits—costing taxpayers millions.

JOIN VETERANS, DOCTORS, PATIENT ADVOCATES, TAXPAYER GROUPS: NO on 61.

www.NoProp61.com

DALE SMITH, Commander
Veterans of Foreign Wars, Department of California
RANDY MUNOZ, Vice Chair, Latino Diabetes Association
GAIL NICKERSON, President
California Association of Rural Health Clinics

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 61 ★

The drug companies want you to believe they're opposing Prop. 61 because it wouldn't cover every drug purchase in California. That's as laughable as the NRA saying it opposes an assault-weapons ban because it doesn't cover enough different kinds of guns.

THE DRUG COMPANIES ARE ONLY CONCERNED ABOUT MAINTAINING THEIR EXORBITANT PRICES AND PROFITS, PURE AND SIMPLE!

Don't be fooled by their expected $100-million campaign of distortion and mistruths. Voting against 61 only allows the drug companies to continue ripping off you and your family.

Despite what they're telling voters, there's a reason the No on Prop. 61 campaign is FUNDED ALMOST ENTIRELY BY OUT-OF-STATE DRUG COMPANIES. Here's what drugmakers are telling themselves, in publications like *Pharmaceutical Executive:*

"It's pretty clear that if this California pricing proposition passes, ALL HELL MAY BREAK LOOSE FOR THE AMERICAN PHARMACEUTICAL INDUSTRY . . . It would shake the rafters of every single public state drug program in the nation, as well as the federal Medicaid and Medicare programs."

Drug companies are also unpatriotically threatening to raise drug prices for veterans, BUT THAT'S ANOTHER EMPTY THREAT. Federal law REQUIRES discounts for the Dept. of Veterans Affairs, drug companies aren't selling reduced-price drugs to veterans out of the goodness of their hearts.

Support Prop. 61 along with:

• California Nurses Association • AARP California • The Urban League • AIDS Healthcare Foundation • VoteVets Action Fund • Association of Asian Pacific Community Health Organizations • Progressive Democrats of America

ONLY PROPOSITION 61 ALLOWS ORDINARY CITIZENS TO FIGHT BACK AGAINST DRUG COMPANY POWER AND GREED. *www.StopPharmaGreed.com*.

OTTO O. YANG, M.D., Scientific Director
AIDS Healthcare Foundation
CAPTAIN SHAWN TERRIS (Ret.), Chair
California Democratic Party Veterans Caucus
NOLAN V. ROLLINS, President
Los Angeles Urban League/California Association of Urban Leagues

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PROPOSITION

62 DEATH PENALTY. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Repeals death penalty as maximum punishment for persons found guilty of murder and replaces it with life imprisonment without possibility of parole.
- Applies retroactively to persons already sentenced to death.
- States that persons found guilty of murder and sentenced to life without possibility of parole must work while in prison as prescribed by the Department of Corrections and Rehabilitation.
- Increases portion of life inmates' wages that may be applied to victim restitution.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Net ongoing reduction in state and county costs related to murder trials, legal challenges to death sentences, and prisons of around $150 million annually within a few years. This estimate could be higher or lower by tens of millions of dollars, depending on various factors.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Murder Punishable by Death

First degree murder is generally defined as the unlawful killing of a human being that (1) is deliberate and premeditated or (2) takes place while certain other crimes are committed, such as kidnapping. It is punishable by a life sentence in state prison with the possibility of being released by the state parole board after a minimum of 25 years. However, current state law makes first degree murder punishable by death or life imprisonment without the possibility of parole when "special circumstances" of the crime have been charged and proven in court. Existing state law identifies a number of special circumstances that can be charged, such as in cases when the murder was carried out for financial gain or when more than one murder was committed.

Death Penalty Proceedings

Death Penalty Trials Can Consist of Two Phases. The first phase of a murder trial where the prosecutor seeks a death sentence involves determining whether the defendant is guilty of murder and any special circumstances. If the defendant is found guilty and a special circumstance is proven, the second phase involves determining whether the death penalty or life without the possibility of parole should be imposed. These murder trials result in costs to the state trial courts. In addition, counties incur costs for the prosecution of these individuals as well as the defense of individuals who cannot afford legal representation. Since the current death penalty law was enacted in California in 1978, 930 individuals have received a death sentence. In recent years, an average of about 20 individuals annually have received death sentences.

Legal Challenges to Death Sentences. Under current state law, death penalty verdicts are automatically appealed to the California Supreme Court. In these "direct appeals," the defendants' attorneys argue that violations of state law or federal constitutional law took place during the trial, such as evidence improperly being included or excluded from the trial. If the California Supreme Court confirms the conviction and death sentence, the defendant can ask the U.S. Supreme Court to review the decision. In addition to direct appeals, death penalty cases ordinarily involve extensive legal challenges in both

state and federal courts. These challenges, which are commonly referred to as "habeas corpus" petitions, involve factors of the case that are different from those considered in direct appeals (such as the claim that the defendant's attorney was ineffective). All of these legal challenges—measured from when the individual receives a death sentence to when the individual has completed all state and federal legal challenge proceedings—can take a couple of decades to complete in California.

The state currently spends about $55 million annually on the legal challenges that follow death sentences. This funding supports the California Supreme Court as well as attorneys employed by the state Department of Justice who seek to uphold death sentences while cases are being challenged in the courts. In addition, it also supports various state agencies that are tasked with providing representation to individuals who have received a sentence of death but cannot afford legal representation.

Implementation of the Death Penalty

Housing of Condemned Inmates. As of April 2016, of the 930 individuals who received a death sentence since 1978, 15 have been executed, 103 have died prior to being executed, 64 have had their sentences reduced by the courts, and 748 are in state prison with death sentences. The vast majority of the 748 condemned inmates are at various stages of the direct appeal or habeas corpus petition process. Condemned male inmates generally are required to be housed at San Quentin State Prison (on death row), while condemned female inmates are housed at the Central California Women's Facility in Chowchilla. The state currently has various security regulations and procedures that result in increased security costs for these inmates. For example, inmates under a death sentence generally are handcuffed and escorted at all times by one or two officers while outside their cells. In addition, unlike most offenders, condemned inmates are currently required to be placed in separate cells.

Executions Currently Halted by Courts. The state uses lethal injection to execute condemned inmates. Because of legal issues surrounding the state's lethal injection procedures, executions have not taken place since 2006. The state is currently in the process of developing procedures to allow for executions to resume.

PROPOSAL

Elimination of Death Penalty for First Degree Murder. Under this measure, no offender could be sentenced to death by the state for first degree murder. Instead, the most serious penalty available would be a prison term of life without the possibility of being released by the state parole board. (There is another measure on this ballot—Proposition 66—that would maintain the death penalty but seeks to shorten the time that the legal challenges to death sentences take.)

Resentencing of Inmates With Death Sentences to Life Without the Possibility of Parole. The measure also specifies that offenders currently sentenced to death would not be executed and instead would be resentenced to a prison term of life without the possibility of parole. This measure also allows the California Supreme Court to transfer all of its existing death penalty direct appeals and habeas corpus petitions to the state's Courts of Appeal or trial courts. These courts would resolve any remaining issues unrelated to the death sentence—such as claims of innocence.

Inmate Work and Payments to Crime Victim Requirements. Current state law generally requires that inmates—including murderers—work while they are in prison. State prison

For the full text of Proposition 62, see page 156.

regulations allow for some exceptions to these work requirements, such as for inmates who pose too great a security risk to participate in work programs. In addition, inmates may be required by the courts to make payments to victims of crime. This measure specifies that every person found guilty of murder must work while in state prison and have their pay deducted for any debts they owe to victims of crime, subject to state regulations. Because the measure does not change state regulations, existing prison practices related to inmate work requirements would not necessarily be changed. In addition, the measure increases from 50 percent to 60 percent the maximum amount that may be deducted from the wages of inmates sentenced to life without the possibility of parole for any debts owed to victims of crime. This provision would also apply to individuals who are resentenced under the measure from death to life without the possibility of parole.

FISCAL EFFECTS

The measure would have a number of fiscal effects on the state and local governments. The major fiscal effects of the measure are discussed below.

Murder Trials

Court Proceedings. This measure would reduce state and county costs associated with some murder cases that would otherwise have been eligible for the death penalty under current law. These cases would typically be less expensive if the death penalty was no longer an option, for two primary reasons. First, the duration of some trials would be shortened. This is because there would no longer be a separate phase to determine whether the death penalty is imposed. Other aspects of murder trials could also be shortened. For example, jury selection time for some trials could be reduced as it would no longer be necessary to remove potential jurors who are unwilling to impose the death penalty. Second, the elimination of the death penalty would reduce the costs incurred by counties for prosecutors and public defenders for some murder cases. This is because these agencies generally use more attorneys in cases where a death sentence is sought and incur greater expenses related to investigations and other preparations for the sentencing phase in such cases.

County Jails. County jail costs could also be reduced because of the measure's effect on murder trials. Persons held for trial on murder charges, particularly cases that could result in a death sentence, ordinarily remain in county jail until the completion of their trial and sentencing. As some murder cases are shortened due to the elimination of the death penalty, persons convicted of murder would be sent to state prison earlier than they otherwise would be. Such an outcome would reduce county jail costs and increase state prison costs.

Summary of Impacts Related to Murder Trials. In total, the measure could reduce annual state and county costs for murder trials by several tens of millions of dollars on a statewide basis. The actual reduction would depend on various factors, including the number of death penalty trials that would otherwise have occurred in the absence of the measure. In addition, the amount of this reduction could be partially offset to the extent that the elimination of the death penalty reduced the incentive for offenders to plead guilty in exchange for a lesser sentence in some murder cases. If additional cases went to trial instead of being resolved through plea agreements, the state and counties would experience additional costs for support of courts, prosecution, and defense attorneys, as well as county jails. The extent to which this would occur is unknown. In most cases, the state and counties would likely redirect available resources resulting from the

above cost reductions to other court and law enforcement activities.

Legal Challenges to Death Sentences

Over time, the measure would reduce state expenditures by the California Supreme Court and the state agencies participating in the legal challenges to death sentences. These reduced costs would reach about $55 million annually. However, these reduced costs likely would be partially offset in the short run because some state expenditures would probably continue until the courts resolved all cases for inmates who previously received death sentences. In the long run, there would be relatively minor state and local costs—possibly totaling a couple million dollars annually—for hearing appeals from additional offenders receiving sentences of life without the possibility of parole.

State Prisons

The elimination of the death penalty would affect state prison costs in different ways. On the one hand, its elimination would result in a somewhat higher prison population and higher costs as formerly condemned inmates are sentenced to life without the possibility of parole. Given the length of time that inmates currently spend on death row, these costs would likely not be significant. On the other hand, these added costs likely would be more than offset by reduced costs from not housing hundreds of inmates on death row. As previously discussed, it is generally more expensive to house an inmate under a death sentence than an inmate subject to life without the possibility of parole, due to the higher security measures used to house and supervise inmates sentenced to death.

The combined effect of these fiscal impacts would likely result in net state savings for the operation of the state's prison system in the low tens of millions of dollars annually. These savings, however, could be higher or lower depending on the rate of executions that would have otherwise occurred.

Other Fiscal Effects

Prison Construction. The measure could also affect future prison construction costs by allowing the state to avoid future facility costs associated with housing an increasing number of death row inmates. The extent of any such savings would depend on the future growth in the condemned inmate population, how the state chose to house condemned inmates in the future, and the future growth in the general prison population.

Effect on Murder Rate. To the extent that the prohibition on the use of the death penalty has an effect on the incidence of murder in California, the measure could affect state and local government criminal justice expenditures. The resulting fiscal impact, if any, is unknown and cannot be estimated.

Summary of Fiscal Impacts

In total, we estimate that this measure would reduce net state and county costs related to murder trials, legal challenges to death sentences, and prisons. These reduced costs would likely be around $150 million annually within a few years. This reduction in costs could be higher or lower by tens of millions of dollars, depending on various factors.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 62, see page 156.

★ ARGUMENT IN FAVOR OF PROPOSITION 62 ★

California's death penalty system has failed. Taxpayers have spent more than $5 billion since 1978 to carry out 13 executions—a cost of $384 million per execution.

The death penalty is an empty promise to victims' families and carries the unavoidable risk of executing an innocent person.

YES ON 62 REPLACES THIS COSTLY, FAILED SYSTEM WITH A STRICT LIFE SENTENCE AND ZERO CHANCE OF PAROLE

Under Prop. 62, the death penalty will be replaced with a strict life sentence. Those convicted of the worst crimes will NEVER be released. Instead of being housed in expensive private cells on death row, murderers will be kept with other maximum-security inmates.

WORK AND RESTITUTION

Criminals who would otherwise sit on death row and in courtrooms during the decades-long appeals guaranteed by the Constitution, will instead have to work and pay restitution to their victims' families.

REAL CLOSURE FOR VICTIMS' FAMILIES

"California's death penalty system is a long, agonizing ordeal for our family. As my sister's killer sits through countless hearings, we continually relive this tragedy. The death penalty is an empty promise of justice. A life sentence without parole would bring real closure."—*Beth Webb, whose sister was murdered with seven other people in a mass-shooting at an Orange County hair salon.*

HUGE COST SAVINGS CONFIRMED BY IMPARTIAL ANALYSIS

The state's independent Legislative Analyst confirmed Prop. 62 will save $150 million per year. A death row sentence costs 18 times more than life in prison. Resources can be better spent on education, public safety, and crime prevention that actually works.

DEATH PENALTY SYSTEM FLAWS RUN DEEP

California has not executed anyone in 10 years because of serious problems. For nearly 40 years, every attempted fix has failed to make the death penalty system work. It's simply unworkable.

"I prosecuted killers using California's death penalty law, but the high costs, endless delays and total ineffectiveness in deterring crime convinced me we need to replace the death penalty system with life in prison without parole."—*John Van de Kamp, former Los Angeles District Attorney and former California Attorney General.*

THE RISK OF EXECUTING AN INNOCENT PERSON IS REAL

DNA technology and new evidence have proven the innocence of more than 150 people on death row after they were sentenced to death. In California, 66 people had their murder convictions overturned because new evidence showed they were innocent.

Carlos DeLuna was executed in 1989, but an independent investigation later proved his innocence. Executing an innocent person is a mistake that can never be undone.

FORMER DEATH PENALTY ADVOCATES: YES ON 62

"I led the campaign to bring the death penalty back to California in 1978. It was a costly mistake. Now I know we just hurt the victims' families we were trying to help and wasted taxpayer dollars. The death penalty cannot be fixed. We need to replace it, lock up murderers for good, make them work, and move on."—*Ron Briggs, led the campaign to create California's death penalty system.*

www.YesOn62.com

JEANNE WOODFORD, Former Death Row Warden
DONALD HELLER, Author of California's Death Penalty Law
BETH WEBB, Sister of Victim Murdered in 2011

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 62 ★

California's death penalty HASN'T failed; *it was intentionally sabotaged.*

Key supporters of Proposition 62—like the ACLU—have spent decades undermining the death penalty; now they argue for repeal.

For the sake of victims, DON'T LET THEM WIN!

We all agree that the death penalty in California isn't working. The solution is to MEND, NOT END, the death penalty. California's frontline prosecutors and almost all our 58 elected District Attorneys have a plan to fix it.

STARTING WITH VOTING NO ON PROPOSITION 62!

The system is expensive because BRUTAL KILLERS file endless, frivolous appeals, spending decades on death row. Prop. 62 backers want you to believe that granting these thugs lifetime healthcare, housing, meals, and privileges will save money? WHO ARE THEY FOOLING?

They say we don't need a death penalty. *Really?*

There's about 2,000 murders in California annually. Approximately 15—the worst of the worst—receive a death sentence. Who are they?

• MASS MURDERERS/SERIAL KILLERS. • Murderers who RAPED/TORTURED victims. • CHILD KILLERS. • TERRORISTS.

Ask the proponents of Proposition 62: if a murderer sentenced to "Life Without Parole" escapes and murders again, or kills a prison guard, what sentence will they give him? Another life without parole?

The proponent of Prop. 62—an actor—wants you to believe the movie script. But let's be clear, there are no innocents on California's death row. They cite one case from Texas from 1989, still under dispute. California has never executed an innocent, and never will.

Join victims' families and law enforcement and VOTE NO ON PROP. 62!

www.NoProp62YesProp66.com.

MICHELE HANISEE, President
Association of Deputy District Attorneys of Los Angeles County
MARC KLAAS, Father of 12-year-old Murder Victim Polly Klaas
LAREN LEICHLITER, President
San Bernardino County Deputy Sheriffs Association

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★ ARGUMENT AGAINST PROPOSITION 62 ★

Join us in VOTING NO on PROPOSITION 62!

Let's be clear what Proposition 62 does.

Proposition 62 says the worst of the worst murderers get to stay alive, at the taxpayers' expense, decades after committing their horrible crimes, and mocking the pain of their victims' families.

The death penalty is reserved for only the worst murderers like child killers, rape/torture murderers, serial murderers, and cop killers. Just 1–2% of about 2,000 murders in California annually end up with a death sentence.

Proposition 62 says these most heinous crimes should have no higher level of punishment. We disagree. For the very worst criminals, there needs to be a death penalty.

We all know California's death penalty system is broken. Death row inmates are now able to file one frivolous appeal after another, denying justice.

The answer is to MEND, NOT END California's death penalty laws.

Prosecutors, law enforcement, and the families of murder victims OPPOSE PROPOSITION 62 because it jeopardizes public safety, denies justice and closure to victims' families, and rewards the most horrible killers.

The backers of Proposition 62 want you to believe they are protecting wrongly-convicted death row prisoners from being executed.

But in a meeting with the *San Francisco Chronicle,* Governor Jerry Brown, "a former Attorney General, said there are no innocent inmates on California's death row." (3/7/12)

The backers of Proposition 62 say it will save taxpayers money. WHO ARE THEY FOOLING?

Under Prop. 62, taxpayers are on the hook to feed, clothe, house, guard, and provide healthcare to brutal killers until they die of old age. Even give them a heart transplant!

That's why Mike Genest, former California Finance Director, says, "Prop. 62 will cost over $100 million."

If Proposition 62 doesn't protect victims and doesn't protect taxpayers, just who does Proposition 62 protect?

Prop. 62 protects Charles Ng, a brutal serial killer who kidnapped families, tortured/killed children in front of their parents, killed the father, and then repeatedly raped the mother before killing her.

Ng committed his crimes over 30 years ago, delayed his trial for nearly 15 years with appeals, and was finally tried, convicted, and sentenced to death almost 20 years ago. He's still on death row, filing appeals to delay his punishment, long after his victims were silenced forever.

Who else does Proposition 62 protect?

Richard Allen Davis, who kidnapped, raped, and tortured 12-year-old Polly Klaas.

Serial killer Robert Rhoads, who kidnapped, raped, and tortured 8-year-old Michael Lyons before stabbing him 70 times.

And hundreds more like them.

California's death row inmates include the killers of:

• Over 1,000 MURDER VICTIMS. • 226 CHILDREN. • 43 PEACE OFFICERS. • 294 victims who were RAPED or TORTURED before being killed.

The American Civil Liberties Union supports repealing the death penalty; the very same people who file all the frivolous appeals that have bogged down the system. Now they are using the problems they created to argue the death penalty should be repealed.

DON'T BE FOOLED. Join us and VOTE NO on PROPOSITION 62!

Visit *www.NoProp62YesProp66.com* for more information.

MIKE RAMOS, District Attorney of San Bernardino County

MARC KLAAS, Father of 12-year-old Murder Victim Polly Klaas

MIKE DURANT, President
Peace Officers Research Association of California

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 62 ★

YES ON 62 REQUIRES A STRICT LIFE SENTENCE—WHY KEEP PAYING FOR A COSTLY, FAILED DEATH PENALTY SYSTEM?

Prop. 62 locks up the worst murderers for life and ends the huge cost of death row. These murderers will never be paroled or set free. They will have to work and pay restitution to the families of their victims.

Most of those sentenced to death already end up spending life in prison because 99% of death sentences are never carried out. Yet it costs 18 times more to house them on death row and pay for their attorneys than a strict life sentence without parole.

YES ON 62 SAVES $150 MILLION A YEAR

The state's nonpartisan fiscal advisor—the Legislative Analyst—confirms Prop. 62 will save taxpayers $150 million every year. Read the analysis for yourself in this Voter Guide.

38 YEARS OF FAILURE

Opponents of Prop. 62 admit the death penalty system is broken. In fact, the death penalty advocates who created this system now admit it has failed, despite many attempts to fix it. Since 1978, taxpayers have spent $5 billion on the death penalty, yet over the last ten years there hasn't been a single execution.

The long and costly appeals process is mandated by the Constitution so an innocent person isn't wrongly executed. It can't be changed. Vote YES on Prop. 62 to save hundreds of millions of dollars and keep vicious killers locked up, working and paying restitution to the families of their victims.

ROBYN BARBOUR, Grandmother was Murdered in 1994

JOHN DONOHUE, Ph.D., Professor of Economics and Law Stanford Law School

RON BRIGGS, Led Campaign to Bring the Death Penalty Back in 1978

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

PROPOSITION

63 FIREARMS. AMMUNITION SALES. INITIATIVE STATUTE.

63

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Requires individuals to pass a background check and obtain Department of Justice authorization to purchase ammunition.
- Prohibits possession of large-capacity ammunition magazines, and requires their disposal, as specified.
- Requires most ammunition sales be made through licensed ammunition vendors and reported to Department of Justice.
- Requires lost or stolen firearms and ammunition be reported to law enforcement.
- Prohibits persons convicted of stealing a firearm from possessing firearms.
- Establishes new procedures for enforcing laws prohibiting firearm possession.
- Requires Department of Justice to provide information about prohibited persons to federal National Instant Criminal Background Check System.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Increased state and local court and law enforcement costs, potentially in the tens of millions of dollars annually, related to a new court process for removing firearms from prohibited persons after they are convicted.
- Potential increase in state costs, not likely to exceed the millions of dollars annually, related to regulating ammunition sales. These costs would likely be offset by fee revenues.
- Potential net increase in state and local correctional costs, not likely to exceed the low millions of dollars annually, related to changes in firearm and ammunition penalties.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Restrictions on Firearm and Ammunition Possession

Under federal and state law, certain individuals are not allowed to have firearms. These "prohibited persons" include individuals (1) convicted of felonies and some misdemeanors (such as assault or battery), (2) found by a court to be a danger to themselves or others due to mental illness, and (3) with a restraining order against them. In California, individuals who are not allowed to have firearms are also not allowed to have ammunition.

Regulation of Firearm Sales

Both federal and state law include various regulations related to firearm sales, including the licensing of firearm dealers. Such regulations include:

- ***Background Checks.*** Under federal law, firearm dealers must request background checks of individuals seeking to buy firearms from the National Instant Criminal Background Check System (NICS). The NICS searches a number of federal databases to ensure that the buyer is not a prohibited person. As allowed by federal law, California processes all background check requests from firearm dealers in the state directly by using NICS and various state databases.
- ***Removal of Firearms From Prohibited Persons.*** The California Department of Justice (DOJ) maintains a database of individuals who have legally bought or registered a firearm with the state. DOJ agents use this information to remove firearms from individuals who are no longer allowed to have firearms.
- ***Other Regulations.*** Other state regulations related to firearms include: limits on the type of firearms that can be bought, a ten-day waiting period before a dealer may give a firearm to a buyer, and requirements for recording and reporting firearm sales.

Fees charged to firearm dealers and buyers generally offset the state's costs to regulate firearm sales.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Regulation of Ammunition Sales

Prior to this year, the state did not regulate ammunition sales in the same manner as firearms. In July 2016, the state enacted legislation to increase the regulation of ammunition sales. Such regulations include:

- ***Licenses to Sell Ammunition.*** Beginning January 2018, individuals and businesses will be required to obtain a one-year license from DOJ to sell ammunition. Certain individuals and businesses would not be required to obtain a license, such as licensed hunters selling less than 50 rounds of ammunition per month to another licensed hunter while on a hunting trip. In order to obtain a license, ammunition dealers will need to demonstrate that they are not prohibited persons. In addition, certain entities will be able to automatically receive an ammunition license, such as firearm dealers licensed by both the state and federal government and firearm wholesalers. A vendor who fails to comply with ammunition sale requirements three times would have their ammunition dealer's license permanently revoked. DOJ could charge a fee to individuals and businesses seeking a license to sell ammunition to support its administrative and enforcement costs.
- ***DOJ Approval to Buy Ammunition.*** Beginning July 2019, ammunition dealers will be required to check with DOJ at the time of purchase that individuals seeking to buy ammunition are not prohibited persons. This requirement would not apply to some individuals, such as persons permitted to carry concealed weapons. In addition, ammunition dealers will generally be required to collect and report information—such as the date of the sale, the buyers' identification information, and the type of ammunition purchased—to DOJ for storage in a database for two years. Failure to comply with these requirements is a misdemeanor (punishable by a fine and/or imprisonment in county jail). DOJ could generally charge an individual seeking to purchase ammunition a fee of up to $1 per transaction to support its administrative and enforcement costs. DOJ could adjust this fee cap annually for inflation.
- ***Other Regulations.*** Beginning January 2018, state law generally will require that most ammunition sales (including Internet and out-of-state sales) take place through a licensed ammunition dealer. In addition, beginning July 2019, most California residents will be prohibited from bringing ammunition into the state without first having the ammunition delivered to a licensed ammunition dealer. Failure to comply with these requirements is a misdemeanor.

Status of Recent Legislation

As discussed above, the state recently enacted legislation to increase the regulation of ammunition sales. The state also recently enacted legislation to further limit the ownership of large-capacity magazines and to create a penalty for filing a false lost or stolen firearm report to law enforcement. These laws will take effect unless they are placed before the voters as referenda. If that occurs, voters will determine whether the laws take effect.

PROPOSAL

Proposition 63 (1) changes state regulation of ammunition sales, (2) creates a new court process to ensure the removal of firearms from prohibited persons after they are convicted of a felony or certain misdemeanors, and (3) implements various other provisions. Additionally, Proposition 63 states that the Legislature can change its provisions if such changes are "consistent with and further the intent" of the measure. Such changes can only be made if 55 percent of the members of each house of the Legislature passes them and the bill is enacted into law.

Changes to State Regulation of Ammunition Sales

Proposition 63 includes various regulations related to the sale of ammunition. Some of the regulations would replace existing law with similar provisions. However, other regulations proposed by Proposition 63 are different, as discussed below.

For the full text of Proposition 63, see page 163.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Requirements to Buy Ammunition. Proposition 63 includes various requirements for individuals seeking to buy ammunition and for DOJ to regulate such purchases. Specifically, the measure:

- Requires individuals to obtain a four-year permit from DOJ to buy ammunition and for ammunition dealers to check with DOJ that individuals buying ammunition have such permits.
- Requires DOJ to revoke permits from individuals who become prohibited.
- Allows DOJ to charge each person applying for a four-year permit a fee of up to $50 to support its various administrative and enforcement costs related to ammunition sales.

The state, however, enacted legislation in July 2016 to replace the above provisions with alternative ones if Proposition 63 is approved by the voters. (This legislation was enacted pursuant to the provision of Proposition 63 allowing for changes that are "consistent with and further the intent" of the proposition, as described earlier.) Specifically, under the legislation: (1) ammunition dealers would be required to check with DOJ that individuals seeking to buy ammunition are not prohibited persons at the time of purchase and (2) DOJ could generally charge such individuals up to $1 per transaction. These provisions are similar to current law. Fewer individuals, however, would be exempt from this check than under current law. For example, individuals permitted to carry concealed weapons would be subject to this check.

Licenses to Sell Ammunition. Similar to current law, Proposition 63 requires individuals and businesses to obtain a one-year license from DOJ to sell ammunition. However, the measure changes the types of individuals and businesses that would be exempt from obtaining a license. For example, the measure generally exempts individuals and businesses that sell a small number of rounds of ammunition from the requirement to get a license. The measure also makes various changes in the penalties for failure to follow ammunition sale requirements. For example, it establishes a new criminal penalty—specifically, a misdemeanor—for failing to follow vendor licensing requirements.

Other Ammunition Requirements. This measure prohibits most California residents from bringing ammunition into the state without first having the ammunition delivered to a licensed ammunition dealer beginning in January 2018—a year and a half earlier than under current law. Additionally, failure to comply with this requirement would change from a misdemeanor to an infraction (punishable by a fine) for the first offense and either an infraction or a misdemeanor for any additional offense. The measure also requires DOJ to store certain ammunition sales information in a database indefinitely, rather than for two years.

Creates New Court Process for Removal of Firearms

This measure creates a new court process to ensure that individuals convicted of offenses that prohibit them from owning firearms do not continue to have them. Beginning in 2018, the measure requires courts to inform offenders upon conviction that they must (1) turn over their firearms to local law enforcement, (2) sell the firearms to a licensed firearm dealer, or (3) give the firearms to a licensed firearm dealer for storage. The measure also requires courts to assign probation officers to report on what offenders have done with their firearms. If the court finds that there is probable cause that an offender still has firearms, it must order that the firearms be removed. Finally, local governments or state agencies could charge a fee to reimburse them for certain costs in implementing the measure (such as those related to the removal or storage of firearms).

Implements Other Provisions

Reporting Requirements. The measure includes a number of reporting requirements related to firearms and ammunition. For example, the measure requires that ammunition dealers report the loss or theft of ammunition within 48 hours. It also requires that most individuals report the loss or theft of firearms within five days to local law enforcement. An individual who does not make such a report within five days would be guilty of an infraction for the first two violations. Additional violations would be a misdemeanor. This measure

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

also reduces the penalty for an individual who knowingly submits a false report to local law enforcement from a misdemeanor to an infraction and eliminates the prohibition from owning firearms for ten years for such an individual. This measure also requires DOJ to submit the name, date of birth, and physical description of any newly prohibited person to NICS.

Large-Capacity Magazines. Since 2000, state law has generally banned individuals from obtaining large-capacity magazines (defined as those holding more than ten rounds of ammunition). The law, however, allowed individuals who had large-capacity magazines before 2000 to keep them for their own use. Beginning July 2017, recently enacted law will prohibit most of these individuals from possessing these magazines. Individuals who do not comply are guilty of an infraction. However, there are various individuals who will be exempt from this requirement—such as an individual who owns a firearm (obtained before 2000) that can only be used with a large-capacity magazine. Proposition 63 eliminates several of these exemptions, as well as increases the maximum penalty for possessing large-capacity magazines. Specifically, individuals who possess such magazines after July 2017 would be guilty of an infraction or a misdemeanor.

Penalty for Theft of Firearms. Under current state law, the penalty for theft of firearms worth $950 or less is generally a misdemeanor punishable by up to one year in county jail. Under this measure, such a crime would be a felony and could be punishable by up to three years in state prison. Additionally, individuals previously convicted of a misdemeanor for the theft of a firearm would be prohibited from owning firearms for ten years. Currently, there is no such prohibition for a misdemeanor conviction for theft of firearms.

FISCAL EFFECTS

Increased Court and Law Enforcement Costs. The new court process for removing firearms from prohibited persons after they are convicted would result in increased workload for the state and local governments. For example, state courts and county probation departments would have some increased workload to determine whether prohibited persons have firearms and whether they have surrendered them. In addition, state and local law enforcement would have new workload related to removing firearms from offenders who fail to surrender them as part of the new court process. They could also have increased costs related to the storage or return of firearms. Some of the increased law enforcement costs related to the removal, storage, or return of firearms would be offset to the extent that local governments and state agencies charge and collect fees for these activities, as allowed by this measure. The total magnitude of these state and local costs **could be in the tens of millions of dollars annually.** Actual costs would depend on how this measure was implemented.

Potential Increased State Regulatory Costs. On balance, the measure's changes to the regulation of ammunition sales could increase state costs. For example, more individuals or businesses would likely be subject to state ammunition requirements under the measure. The actual fiscal effect of the changes would depend on how they are implemented and how individuals respond to them. We estimate that the potential increase in state costs would not likely exceed the millions of dollars annually. These costs would likely be offset by the various fees authorized by the measure and existing state law.

Potential Net Increased Correctional Costs. This measure makes various changes to penalties related to firearms and ammunition. While some changes reduce penalties for certain offenses, other changes increase penalties for certain offenses. On net, these changes could result in increased correctional costs to state and local governments, such as to house individuals in prison and jail. The magnitude of such costs would depend primarily on the number of violations and how the measure is enforced. The potential net increase in correctional costs would **likely not exceed the low millions of dollars annually.**

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 63, see page 163.

★ ARGUMENT IN FAVOR OF PROPOSITION 63 ★

PROPOSITION 63 WILL KEEP US SAFER BY REDUCING GUN VIOLENCE

Police in Dallas doing their job . . .. A nightclub in Orlando . . .. An office holiday party in San Bernardino . . .. A church in Charleston . . .. A movie theater in Aurora . . .. An elementary school in Newtown . . ..

What's next? How many more people need to die from gun violence before we take bold action to save lives?

More than 300 Americans are shot each day, more than 80 of them fatally.

More than 1 million Americans were killed or seriously injured by guns from 2004–20I4.

ENOUGH!

It's time to take action to keep guns and ammo out of the wrong hands.

Proposition 63—the Safety for All Act—will save lives by closing loopholes to prevent dangerous criminals, domestic abusers, and the dangerously mentally ill from obtaining and using deadly weapons.

PROPOSITION 63 WILL:

- Remove illegal guns from our communities by ensuring that dangerous criminals and domestic abusers sell or transfer their firearms after they're convicted.
- Require any business that sells ammunition to report if their ammunition is lost or stolen.
- Require people to notify law enforcement if their guns are lost or stolen, before the weapons end up in the wrong hands.
- Ensure people convicted of gun theft are ineligible to own guns.
- Strengthen our background check systems and ensure that California law enforcement shares data about dangerous people with the FBI.

Proposition 63 keeps guns and ammo out of the wrong hands, while protecting the rights of law-abiding Californians to own guns for self-defense, hunting, and recreation.

Right now, thousands of dangerous felons remain illegally armed because we don't ensure that people convicted of violent crimes actually relinquish their guns after conviction. The Department of Justice identified more than 17,000 felons and other dangerous people with more than 34,000 guns, including more than 1,400 assault weapons.

Passing Proposition 63 will represent a historic and unprecedented step forward for gun safety.

LEADERS FROM ACROSS CALIFORNIA SUPPORT PROPOSITION 63, INCLUDING:

• Lieutenant Governor Gavin Newsom • U.S. Senator Dianne Feinstein • Law Center to Prevent Gun Violence • California Democratic Party • California Secretary of State Alex Padilla • Speaker Emeritus of the Assembly Toni Atkins • Speaker Emeritus of the Assembly John Pérez • Sheriff Vicki Hennessy, San Francisco • Former Police Chief Ken James, Emeryville • SEIU • League of Women Voters of California • California Young Democrats • California Federation of Teachers • San Francisco Board of Education • Equality California • Courage Campaign • California American College of Physicians • California American College of Emergency Physicians • Southern California Public Health Association • Clergy and Laity United for Economic Justice • Coalition Against Gun Violence • Rabbis Against Gun Violence • States United to Prevent Gun Violence • Stop Handgun Violence • Stop Our Shootings • Women Against Gun Violence • Youth Alive!

To learn more please visit *www.SafetyforAll.com.*

GAVIN NEWSOM, Lieutenant Governor of California
DIANNE FEINSTEIN, United States Senator
ROBYN THOMAS, Executive Director
Law Center to Prevent Gun Violence

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 63 ★

Terrorists don't follow the law!

Gavin Newsom refuses to acknowledge that the Orlando and San Bernardino attacks were ISIS inspired Islamic radicalism. It is the same ideology that motivated the 9/11 terror attacks that killed 2,996 innocents.

Exploiting terrorist attacks to push sweeping laws affecting law-abiding peoples' civil liberties is misleading, wrong, and dangerous.

None of the proposed laws would prevent terrorist attacks. The reality is terrorists can always find the means to wreak havoc, a box cutter in a plane on 9/11, a homemade bomb in Boston, or a truck in Nice, France. Terrorists and criminals get weapons from the black market, make them, or steal them from law-abiding citizens.

Everyone agrees that preventing weapons from falling into the wrong hands is crucial. We all share the concern about the growing trends of terrorism and radicalization.

But, Prop. 63 is NOT the answer.

Spending tens of millions of taxpayer dollars year after year on useless lists of everyone who buys and sells ammunition diverts critical resources and focus away from effective anti-terrorism efforts, leaving the public more vulnerable to attack and *LESS SAFE*.

There's a reason law enforcement overwhelmingly opposes Prop. 63.

The public interest would be better served if these resources were used to educate more Californians about what they can do to protect their families and communities from terrorist attacks or to further train law enforcement to do so.

Stop this dangerous abuse of public resources.

Vote NO on Prop. 63!

ALON STIVI, President
Direct Measures International, Inc.
WILLIAM "BILLY" BIRDZELL, U.S. Special Operations Command Anti-Terrorism Instructor
RICHARD GRENELL, Longest serving U.S. Spokesman at the United Nations

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★ ARGUMENT AGAINST PROPOSITION 63 ★

Prop. 63 is overwhelmingly opposed by the law enforcement community and civil rights groups because it will burden law abiding citizens without keeping violent criminals and terrorists from accessing firearms and ammunition.

The California State Sheriffs' Association, Association of Deputy District Attorneys for Los Angeles County, California Correctional Peace Officers Association, California Fish & Game Wardens' Association, California Reserve Peace Officers Association, and numerous other law enforcement and civic groups, representing tens of thousands of public safety professionals throughout California, are united in their opposition to this ineffective, burdensome, and costly proposal.

Prop. 63 would divert scarce law enforcement resources away from local law enforcement and overburden an already overcrowded court system with the enforcement of flawed laws that will turn harmless, law-abiding citizens into criminals. In fact, New York recently abandoned its enforcement of a similar proposal after it was passed, finding that it was impossible to implement and effectively maintain.

Doing what actually works to keep the public safe is the highest priority of law enforcement professionals who dedicate their lives to protecting Californians. Unfortunately, Prop. 63 will not make anyone safer. To the contrary, by directing resources away from measures that are truly effective at preventing the criminal element from acquiring guns and ammunition, it would make us all less safe. The immense public resources that Prop. 63 would waste should be used to hire more officers and to target, investigate, and prosecute dangerous individuals and terrorists.

After closely analyzing the language of Prop. 63, the law enforcement community found many problems in the details. Due to strict limitations on the Legislature's ability to amend voter-enacted propositions, most of these problems will be difficult or impossible for the Legislature to fix if Prop. 63 passes, saddling California with the burdens and costs of this flawed proposal forever.

By going around the Legislature, this initiative limits public safety professionals in developing future legislation that would truly promote public safety. California taxpayers should not waste hundreds of millions of their dollars on ineffective laws that have no value to law enforcement and will harm public safety by diverting resources away from effective law enforcement activities that are critical to public safety.

Please visit *WWW.WHERESMYAMMO.COM* for more information.

PLEASE VOTE NO ON PROP. 63.

DONNY YOUNGBLOOD, President
California State Sheriffs' Association

KEVIN BERNZOTT, Chief Executive Officer
California Reserve Peace Officers Association

TIFFANY CHEUVRONT, Principal Officer
Coalition for Civil Liberties

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 63 ★

As law enforcement and public safety officials, we're not surprised that groups such as the NRA and its affiliates oppose Proposition 63. Make no mistake, the so-called "Coalition for Civil Liberties" is actually an NRA front group.

The gun lobby often claims we should focus on enforcing existing gun laws, and that's exactly what this initiative does—*Prop. 63 closes loopholes and helps enforce existing laws to keep guns and ammo out of the wrong hands.*

For example, Prop. 63 *ensures dangerous convicts prohibited from owning weapons follow the law and get rid of their firearms.* Law enforcement professionals have found that felons and dangerous people currently possess thousands of guns illegally—so closing this loophole will save lives.

Prop. 63 also *requires reporting lost and stolen firearms,* to help police shut down gun trafficking rings and locate caches of illegal weapons. Prop. 63 will help police recover stolen guns before they're used in crimes and return them to their lawful owners.

Prop. 63 also *improves background check systems* so that law enforcement can prevent people banned from owning weapons—such as violent felons—from buying guns and ammo.

And Prop. 63 clarifies existing law so that any gun theft is a felony, *ensuring that people who steal guns can't own guns.* That's another common-sense reform to save lives overwhelmingly supported by law enforcement professionals.

Prop. 63 will close loopholes in our existing laws and prevent dangerous criminals, domestic abusers, and the dangerously mentally ill from obtaining and using deadly weapons.

NANCY O'MALLEY, District Attorney
Alameda County

JEFF ROSEN, District Attorney
Santa Clara County

VICKI HENNESSY, Sheriff
San Francisco

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PROPOSITION

64 MARIJUANA LEGALIZATION. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Legalizes marijuana under state law, for use by adults 21 or older.
- Designates state agencies to license and regulate marijuana industry.
- Imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of $9.25 per ounce of flowers and $2.75 per ounce of leaves.
- Exempts medical marijuana from some taxation.
- Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products.
- Prohibits marketing and advertising marijuana directly to minors.
- Allows local regulation and taxation of marijuana.
- Authorizes resentencing and destruction of records for prior marijuana convictions.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- The size of the measure's fiscal effects could vary significantly depending on:
  (1) how state and local governments choose to regulate and tax marijuana,
  (2) whether the federal government enforces federal laws prohibiting marijuana, and
  (3) how marijuana prices and consumption change under the measure.
- Net additional state and local tax revenues that could eventually range from the high hundreds of millions of dollars to over $1 billion annually. Most of these funds would be required to be spent for specific purposes such as youth programs, environmental protection, and law enforcement.
- Net reduced costs potentially in the tens of millions of dollars annually to state and local governments primarily related to a decline in the number of marijuana offenders held in state prisons and county jails.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

State Marijuana Laws

Marijuana Generally Illegal Under State Law. Under current state law, it is generally illegal to possess or use marijuana. (Please see the nearby box for detailed information on how marijuana is used.) Penalties for marijuana-related activities vary depending on the offense. For example, possession of less than one ounce of marijuana (the equivalent of roughly 40 marijuana cigarettes, also known as "joints") is punishable by a fine, while selling or growing marijuana may result in a jail or prison sentence.

Proposition 215 Legalized Medical Marijuana. In 1996, voters approved Proposition 215, which made it legal under state law for individuals of any age to use marijuana in California for medical purposes. Individuals must have a recommendation from a doctor to use medical marijuana. In 2003, the Legislature legalized medical marijuana collectives, which are nonprofit organizations that grow and provide marijuana to their members. Collectives are not now licensed

How do Individuals Use Marijuana?

Smoking. The most common way individuals use marijuana is by smoking it. Typically, users smoke the dried flowers of the marijuana plant. Dried marijuana leaves can also be smoked but this is rare because leaves contain only small amounts of tetrahydrocannabinol (THC), which is the ingredient in marijuana that produces a "high." Marijuana leaves, flowers, and stalks can also be processed into concentrated marijuana and smoked. Examples of concentrated marijuana include hash and hash oil. Concentrated marijuana is much stronger than dried marijuana, often containing five to ten times the THC levels found in dried marijuana flowers.

Vaporizing. Some users consume marijuana with devices called vaporizers. A vaporizer heats up dried marijuana or concentrated marijuana but does not burn it. This heating process creates a gas containing THC that is inhaled.

Eating. Marijuana can also be added to food. Edible marijuana products are typically made by adding THC from the plant into ingredients (like butter or oil) that are used to prepare foods such as brownies, cookies, or chocolate bars.

Other Methods. Other less common ways of using marijuana include drinking beverages infused with marijuana and rubbing marijuana infused lotions on the skin.

or regulated by the state, but cities and counties can regulate where and how medical marijuana is grown and sold by individuals or collectives.

State Currently Adopting New Medical Marijuana Regulations. Recently, new state laws were adopted to begin regulating medical marijuana. As shown in Figure 1, a new Bureau of Medical Cannabis Regulation and other state agencies are responsible for this regulation. The new laws require the state to set standards for labelling, testing, and packaging medical marijuana products and to develop a system to track such products from production to sale. Currently, these regulations are being developed by the different regulatory agencies. Under the new laws, medical marijuana collectives must be closed within a few years and replaced by state-licensed businesses. Local governments will continue to have the ability to regulate where and how medical

Figure 1

Medical Marijuana Industry to Be Regulated by Multiple State Agencies

Regulatory Agency	Primary Responsibilities
Bureau of Medical Cannabis Regulation	License medical marijuana distributors, transporters, testing facilities, and retailers.
Department of Food and Agriculture	License and regulate medical marijuana growers.
Department of Public Health	License and regulate producers of edible marijuana products.
State Water Resources Control Board	Regulate the environmental impacts of marijuana growing on water quality.
Department of Fish and Wildlife	Regulate environmental impacts of marijuana growing.
Department of Pesticide Regulation	Regulate pesticide use for growing marijuana.

For the full text of Proposition 64, see page 178.

marijuana businesses operate.

Taxes on Medical Marijuana. State and local governments currently collect sales tax on medical marijuana. A small number of cities also impose additional taxes specifically on medical marijuana. The total amount of state and local taxes collected on medical marijuana likely is several tens of millions of dollars annually.

Federal Marijuana Laws

Under federal law, it is illegal to possess or use marijuana, including for medical use. The U.S. Supreme Court ruled in 2005 that federal agencies could continue under federal law to prosecute individuals who possess or use marijuana for medical purposes even if legal under a state's law. Currently, however, the U.S. Department of Justice (DOJ) chooses not to prosecute most marijuana users and businesses that follow state and local marijuana laws if those laws are consistent with federal priorities. These priorities include preventing minors from using marijuana and preventing marijuana from being taken to other states.

PROPOSAL

This measure (1) legalizes adult nonmedical use of marijuana, (2) creates a system for regulating nonmedical marijuana businesses, (3) imposes taxes on marijuana, and (4) changes penalties for marijuana-related crimes. These changes are described below.

Legalization of Adult Nonmedical Use of Marijuana

Personal Use of Nonmedical Marijuana. This measure changes state law to legalize the use of marijuana for nonmedical purposes by adults age 21 and over. Figure 2 summarizes what activities would be allowable under the measure. These activities would remain illegal for individuals under the age of 21.

Purchasing Marijuana. Under the measure, adults age 21 and over would be able to purchase marijuana at state-licensed businesses or through their delivery services. Businesses could generally not be located within 600 feet of a school, day care center, or youth center, unless allowed by a local government. In addition, businesses selling

Figure 2

Proposition 64 Legalizes Nonmedical Marijuana Activities, With Restrictions

Activity	Activities Allowed Under the Measure	Activities Not Allowed Under the Measure
Smoking marijuana	Smoking marijuana in a private home or at a business licensed for on-site marijuana consumption.	Smoking marijuana (1) while driving a car, (2) in any public place (other than at a business licensed for on-site consumption), or (3) anywhere that smoking tobacco is prohibited.
Possessing marijuana for personal use	Possession of up to 28.5 grams (about one ounce) of marijuana and up to 8 grams of concentrated marijuana (such as hash).	Possession of marijuana on the grounds of a school, day care center, or youth center while children are present.
Growing marijuana	Growing up to six marijuana plants and keeping the marijuana produced by the plants within a private home.	Growing in an area that is unlocked or visible from a public place.
Giving away marijuana	Giving away to other adults up to 28.5 grams of marijuana and up to 8 grams of concentrated marijuana.	Providing marijuana to minors under the age of 21 for nonmedical use.

marijuana could not sell tobacco or alcohol. Under the measure, local governments could authorize licensed businesses to allow on-site consumption of marijuana. However, such businesses could not allow consumption in areas within the presence or sight of individuals under the age of 21 or areas visible from a public place. In addition, businesses allowing on-site marijuana consumption could not allow consumption of alcohol or tobacco.

Regulation of Nonmedical Marijuana Businesses

State Regulation of Nonmedical Marijuana Businesses. This measure changes the name of the Bureau of Medical Cannabis Regulation to the Bureau of Marijuana Control and makes it also responsible for regulating and licensing nonmedical marijuana businesses. In addition, the measure requires other state agencies to regulate and license different parts of the nonmedical marijuana industry. These state agencies would have responsibilities similar to the ones they currently have for medical marijuana. The measure requires each licensing agency to charge fees that cover its marijuana regulatory costs. Under the measure, the system for tracking medical marijuana products that must be developed under current law would be expanded to include marijuana for nonmedical use. The measure also creates the Marijuana Control Appeals Panel to hear appeals from individuals affected by a decision of the state's regulatory agencies. Decisions of the panel could be appealed to the courts.

Local Regulation of Nonmedical Marijuana Businesses. Under the measure, cities and counties could regulate nonmedical marijuana businesses. For example, cities and counties could require nonmedical marijuana businesses to obtain local licenses and restrict where they could be located. Cities and counties could also completely ban marijuana-related businesses. However, they could not ban the transportation of marijuana through their jurisdictions.

Taxation of Marijuana

The measure imposes new state taxes on growing and selling both medical and nonmedical marijuana. As shown in Figure 3, the new tax on growing marijuana would be based on a dollar amount per ounce of marijuana, and the new excise tax would be based on the retail price of marijuana products sold.

The measure would also affect sales tax revenue to the state and local governments in two ways. First, legalizing the sale of nonmedical marijuana will result in new sales tax revenue. (This would happen automatically, as generally products are subject to this tax under current law.) Second, the sale of medical marijuana, which is currently subject to sales tax, is

Figure 3

Taxation of Marijuana Under Proposition 64

Type of Tax	Type of Marijuana Taxed	Rate
New state tax on growing	Both medical and nonmedical.	$9.25 per ounce of dried marijuana flowers and $2.75 per ounce of dried marijuana leaves.
New state retail excise tax	Both medical and nonmedical.	15 percent of retail price.
Existing state and local sales tax	Nonmedical only.	Rates vary across the state but average around 8 percent.
Existing and future local taxes	Can apply to both medical and nonmedical.	Subject to local government decisions.

For the full text of Proposition 64, see page 178.

specifically exempted from that tax. The measure does not change local governments' existing ability to place other taxes on medical marijuana and does not restrict their ability to tax nonmedical marijuana.

Beginning in 2020, the tax on growing marijuana would be adjusted annually for inflation. The measure also allows the state Board of Equalization to annually adjust the tax rate for marijuana leaves to reflect changes in the price of marijuana flowers relative to leaves. In addition, the measure allows the board to establish other categories of marijuana (such as frozen marijuana) for tax purposes and specifies that these categories would be taxed at their value relative to marijuana flowers.

Allocation of Certain State Tax Revenues. Revenues collected from the new state retail excise tax and the state tax on growing marijuana would be deposited in a new state account, the California Marijuana Tax Fund. Certain fines on businesses or individuals who violate regulations created by the measure would also be deposited into this fund. Monies in the fund would first be used to pay back certain state agencies for any marijuana regulatory costs not covered by license fees. A portion of the monies would then be allocated in specific dollar amounts for various purposes, as shown in Figure 4.

All remaining revenues (the vast majority of monies deposited in the fund) would be allocated as follows:

- 60 percent for youth programs—including substance use disorder education, prevention, and treatment.
- 20 percent to clean up and prevent environmental damage resulting from the illegal growing of marijuana.
- 20 percent for (1) programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and (2) a grant program designed to reduce any potential negative impacts on public health or safety resulting from the measure.

Penalties for Marijuana-Related Crimes

Change in Penalties for Future Marijuana Crimes. The measure changes state marijuana penalties. For example, possession of one ounce or less of marijuana is currently punishable by a $100 fine. Under the measure, such a crime committed by

Figure 4

Proposition 64 Allocates a Portion of State Revenues for Specific Purposes

Purpose	Annual Funding	Duration
Grants for certain services (such as job placement assistance and substance use disorder treatment) in communities most affected by past drug policies	$10 million to $50 million[a]	2018–19 and ongoing
Evaluate effects of the measure	$10 million	2018–19 through 2028–29
Create and adopt methods to determine whether someone is driving while impaired, including by marijuana	$3 million	2018–19 through 2022–23
Study the risks and benefits of medical marijuana	$2 million	2017–18 and ongoing

[a] $10 million in 2018–19, increasing by $10 million annually until 2022–23, and $50 million each year thereafter.

someone under the age of 18 would instead be punishable by a requirement to attend a drug education or counseling program and complete community service. In addition, selling marijuana for nonmedical purposes is currently punishable by up to four years in state prison or county jail. Under the measure, selling marijuana without a license would be a crime generally punishable by up to six months in county jail and/or a fine of up to $500. In addition, individuals engaging in any marijuana business activity without a license would be subject to a civil penalty of up to three times the amount of the license fee for each violation. While the measure changes penalties for many marijuana-related crimes, the penalties for driving a vehicle while under the impairment of marijuana would remain the same. The measure also requires the destruction—within two years—of criminal records for individuals arrested or convicted for certain marijuana-related offenses.

Individuals Previously Convicted of Marijuana Crimes. Under the measure, individuals serving sentences for activities that are made legal or are subject to lesser penalties under the measure would be eligible for resentencing. For example, an offender serving a jail or prison term for growing or selling marijuana could have their sentence reduced. (A court would not be required to resentence someone if it determined that the person was likely to commit certain severe crimes.) Qualifying individuals would be resentenced to whatever punishment they would have received under the measure. Resentenced individuals currently in jail or prison would be subject to community supervision (such as probation) for up to one year following their release, unless a court removes that requirement. In addition, individuals who have completed sentences for crimes that are reduced by the measure could apply to the courts to have their criminal records changed.

FISCAL EFFECTS

Fiscal Effects Subject to Significant Uncertainty

This measure would affect both costs and revenues for state and local governments. The size of these effects could vary significantly depending primarily on three key factors:

- First, it would depend on how state and local governments chose to regulate and tax marijuana. For example, if many cities and counties banned marijuana businesses, the amount of revenue from taxes on marijuana would be less than without such bans.
- Second, it would depend on whether the U.S. DOJ enforced federal laws prohibiting marijuana. For example, if the U.S. DOJ chose to prosecute state-licensed marijuana businesses, there could be significantly reduced revenue from marijuana taxes. This analysis assumes the U.S. DOJ will follow its current policy regarding enforcement of marijuana laws.
- Third, the fiscal effects would depend heavily on how marijuana prices and consumption change under the measure. This analysis assumes that the price of marijuana would decline significantly. This is primarily because (1) businesses would become more efficient at producing and distributing marijuana and (2) the price of marijuana would no longer be inflated to compensate for the risk of selling an illegal drug. This analysis also assumes that marijuana consumption would increase under the measure. This is

For the full text of Proposition 64, see page 178.

primarily because of (1) the reduced price and (2) the reduced legal risk for marijuana users.

The actual effects on marijuana prices and consumption are unknown, as are the regulatory and enforcement actions of the state, federal, and local governments. As such, the potential cost and revenue impacts of this measure described below are subject to significant uncertainty.

Effects on State and Local Costs

Reduction in Various Criminal Justice Costs. The measure would result in reduced criminal justice costs for the state and local governments. This is primarily related to a decline in the number of offenders held in state prisons and county jails for growing and selling marijuana. The measure would also reduce the number of such offenders placed under community supervision (such as county probation). In addition, the measure would likely reduce other criminal justice costs, such as state court costs for the handling of related criminal cases.

The above cost reductions would be partially offset by increased costs in several areas. In particular, the courts would incur costs to process applications from individuals seeking to be resentenced or have their criminal records changed. In addition, there would be costs to supervise resentenced offenders in the community. These various costs would be incurred largely within the first couple of years following the passage of the measure. In addition, there would be ongoing costs in a few areas. For example, there would be court costs to destroy records of arrest and conviction for individuals who commit certain marijuana-related crimes. In addition, there would be ongoing costs to operate drug education and counseling programs as required by the measure. There would also be some increased criminal justice costs (such as county jail and state court costs) to the extent that increased marijuana use leads to increased marijuana-related crime (such as driving while impaired by marijuana).

In total, the net reduction in state and local criminal justice costs from the above changes could be in the tens of millions of dollars annually. In many cases, these resources would likely be redirected to other criminal justice activities.

Effects on State and Local Health Programs. The measure could also have various fiscal effects on state and local health programs as a result of increased marijuana use. For example, the measure could result in an increase in the number of individuals seeking publicly funded substance use treatment. Any additional costs for such services could be partially or entirely offset by additional funding that would be available for substance use treatment under the measure. Although research on the health effects of marijuana use is limited, there is some evidence that smoking marijuana has harmful effects. For example, marijuana smoke is among a list of substances identified by the state to cause cancer. To the extent that an increase in marijuana use negatively affects users' health, it would increase somewhat state and local health program costs.

Increased State Regulatory Costs. The measure would also result in costs for the state to regulate nonmedical marijuana businesses. These costs would vary depending on how the state chooses to regulate marijuana but could amount to several tens of millions of dollars annually. Eventually, these costs would likely be entirely offset by license fees and tax revenues.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Effects on State and Local Revenues

Tax Revenues Could Reach $1 Billion Annually, but Not Right Away. State and local governments would receive more revenues—including sales, excise, and income taxes—from marijuana sales allowed under this measure. This increase in tax revenue would result primarily from (1) new state excise taxes on growing and selling marijuana, (2) individuals switching from illegal purchases of marijuana (made from individuals who do not pay all the taxes they owe) to legal purchases (at businesses that collect and pay the taxes they owe), and (3) an increase in consumption of marijuana. In addition, lower marijuana prices due to the measure may provide individuals using marijuana now with some savings. This could allow them to purchase other legal products that generate tax revenue. These revenue increases, however, would be partially offset by the loss of sales taxes now collected on medical marijuana sales, as the measure exempts such purchases from these taxes.

In total, our best estimate is that the state and local governments could eventually collect net additional revenues ranging from the high hundreds of millions of dollars to over $1 billion annually. However, the revenues are likely to be significantly lower in the first several years following the passage of the measure. This is because it will take a couple of years for the state to issue licenses to marijuana businesses. In addition, it will likely take time for newly licensed businesses to set up efficient production and distribution systems. Prices in the legal market will likely fall as more legal businesses are licensed and as they become more efficient. As this occurs, more consumers will begin purchasing marijuana legally. It is unknown precisely how long this process will take but it could be several years after the measure passes before revenues reach the range described above. As discussed earlier, the measure requires that most of these funds be spent on specified purposes.

Additional Local Government Revenues. The measure could result in additional revenues if local governments impose taxes on marijuana. The amount of additional revenues could vary significantly, depending primarily on how many local governments impose marijuana taxes and at what rates. These revenues could easily amount to tens of millions of dollars annually.

Potential Impact on Local Economies in Marijuana Producing Areas. Exports of marijuana currently contribute significantly to the economy in parts of Northern California, such as Humboldt, Mendocino, and Trinity Counties. Precisely how this measure would affect these local economies is unknown. Lower marijuana prices and more opportunity for legal cultivation elsewhere could hurt the economy in these areas, reducing local government tax revenues. If, however, local growers and businesses successfully marketed their marijuana products as premium goods, consumers might be willing to pay above-average prices for them. If that occurred, it could help offset some of the negative economic effects in those areas.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 64, see page 178.

★ ARGUMENT IN FAVOR OF PROPOSITION 64 ★

Proposition 64 finally creates a safe, legal, and comprehensive system for adult use of marijuana while protecting our children.

Marijuana is available nearly everywhere in California—but without any protections for children, without assurances of product safety, and without generating tax revenue for the state.

Prop. 64 controls, regulates and taxes adult use of marijuana, and ends California's criminalization of responsible adult use.

California Medical Association supports Prop. 64 because it incorporates best practices from states that already legalized adult marijuana use, and adheres closely to the recommendations of California's Blue Ribbon Commission on Marijuana Policy, which included law enforcement and public health experts.

How Prop. 64 Works:

- Under this law, adults 21+ will be allowed to possess small amounts of nonmedical marijuana, and to grow small amounts at home for personal use. Sale of nonmedical marijuana will be legal only at highly regulated, licensed marijuana businesses, and only adults 21+ will be permitted to enter. Bars will not sell marijuana, nor will liquor stores or grocery stores.

Child Protections:

- Drug dealers don't ask for proof of age and today can sell marijuana laced with dangerous drugs and chemicals. 64 includes toughest-in-the-nation protections for children, requiring purchasers to be 21, banning advertising directed to children, and requiring clear labeling and independent product testing to ensure safety. 64 prohibits marijuana businesses next to schools.

The independent Legislative Analyst's Office found that 64 will both raise revenue and decrease costs. By collecting unpaid taxes from marijuana, it will bring in over $1 billion of revenue every year to help California. And it could save tens of millions of dollars annually in reduced law enforcement costs. Together, that is a benefit of $11 billion over the next decade.

- 64 corrects mistakes from past measures that didn't direct where money goes. Instead, this measure is specific about how money can be spent. Prop. 64 specifically prevents politicians from diverting money to their separate pet projects.
- 64 pays for itself and raises billions for afterschool programs that help kids stay in school; for job placement, job training, and mental health treatment; for drug prevention education for teens; to treat alcohol and drug addiction; and to fund training and research for law enforcement to crack down on impaired driving. Over the next decade, these programs will receive billions in revenues.

Every year, there are more than 8,800 felony arrests for growing or selling marijuana in California, resulting in some very long prison sentences. This is an enormous waste of law enforcement resources. Prop. 64 will stop ruining people's lives for marijuana.

The tough, common sense regulations put forth in 64 are supported by the largest coalition ever in support of marijuana reform, including Lieutenant Governor Gavin Newsom, Democratic and Republican Congressmembers, Law Enforcement Against Prohibition, the California NAACP, the California Democratic Party and many others.

We all know California's current approach toward marijuana doesn't make sense. It's time to put an end to our broken system, and implement proven reforms so marijuana will be safe, controlled, and taxed.

DR. DONALD O. LYMAN, Former Chief of Chronic Disease and Injury Control
California Department of Public Health

GRETCHEN BURNS, Executive Director
Parents for Addiction Treatment and Healing

STEVEN DOWNING, Former Deputy Chief
Los Angeles Police Department

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 64 ★

Proposition 64, in effect, could limit a 45-year ban on smoking ads on television, allowing marijuana ads airing to millions of children and teen viewers. These ads can appear during The Olympics, on "The Voice," "The Big Bang Theory" and hundreds of other programs popular with younger viewers.

These marijuana smoking ads could be allowed on all broadcast primetime shows, and approximately 95% of all broadcast television programming. Children could be exposed to ads promoting marijuana Gummy candy and brownies—the same products blamed for a spike in emergency room visits in Colorado.

We ban tobacco television ads because studies show it encouraged kids to start smoking. Marijuana smoking ads on TV *should* have been banned, but the proponents didn't want to restrict the enormous profits they plan to make, estimated in the billions. And like tobacco money, the corporate monopolies spawned by Proposition 64 can use that money for contributions to politicians to ensure we can never undo the damage Proposition 64 will do.

Sharon Levy, M.D., FAAP, chair of the American Academy of Pediatrics Committee on Substance Abuse warns "It took several generations, millions of lives and billions of dollars to establish the harms of tobacco use on health, even though these harms are overwhelming. We should not consider marijuana 'innocent until proven guilty,' given what we already know about the harms to adolescents."

After recent reforms, *not one single person* remains in California's prisons solely for simple marijuana possession. What Proposition 64 is really about is exposing our children to harm in order to make billions.

Join us in voting "No" on Proposition 64.

KATIE DEXTER, Past President
San Diego County School Boards Association

JOHN QUINTANILLA, Board Member
Rosemead School District

CYNTHIA RUIZ, Board Member
Walnut Valley Unified School District

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★ ARGUMENT AGAINST PROPOSITION 64 ★

There are five huge flaws in Proposition 64 that directly affect you and the people you care about.

Flaw #1: Doubling of highway fatalities.

The AAA Foundation for Highway Safety reports that deaths in marijuana-related car crashes have doubled since the State of Washington approved legalization. Yet, incredibly, Proposition 64's proponents refused to include a DUI standard for marijuana, making it extremely difficult to keep impaired drivers off our highways.

Flaw #2: Allows marijuana growing near schools and parks.

Proposition 64 actually forbids local governments from banning indoor residential growing of marijuana—even next door to an elementary school—provided the crop is limited to six plants, (and that is a lot of marijuana). The California Police Chiefs Association adds that "by permitting indoor cultivation of marijuana literally next door to elementary schools and playgrounds, Proposition 64 is trampling local control."

Flaw #3: Will increase, not decrease black market and drug cartel activity.

"Organized crime filings have skyrocketed in Colorado since marijuana legalization," says Past President of the Colorado Association of Chiefs of Police John Jackson. "We had 1 filing in 2007 and by 2015, we had 40. Since your Proposition 64 repeals the prohibition on heroin and meth dealers with felony convictions getting into the legal marijuana business, it could be much worse in California."

Flaw #4: Could roll back the total prohibition of smoking ads on TV.

Tobacco ads have been banned from television for decades, but Proposition 64 will allow marijuana smoking ads in prime time, and on programs with millions of children and teenage viewers.

Flaw #5: Proposition 64 is an all-out assault on underprivileged neighborhoods already reeling from alcohol and drug addiction problems.

Bishop Ron Allen of the International Faith Based Coalition representing 5,000 inner-city churches calls Proposition 64 an "attack on minorities" and asks "Why are there no limits on the number of pot shops that can be opened in poor neighborhoods? We will now have a string of pot shops to go with the two liquor stores on every block, but we still can't get a grocery store. Proposition 64 will make every parent's job tougher."

In short, Proposition 64 is radically different from legalization measures in other states, and may weaken countless consumer protections just passed last year and signed into law by Governor Brown.

If the proponents' Rebuttal below doesn't answer these five questions, then the only reasonable decision is to vote "No".

1. Why is there no DUI standard in your initiative to let our CHP officers get drug-impaired drivers off the road? It is not sufficient to simply commission a "study".
2. Why does Proposition 64 permit indoor cultivation of marijuana right next door to playgrounds and schools?
3. Why does Proposition 64 allow felons convicted of dealing meth and heroin to be licensed to sell marijuana?
4. Why does Proposition 64 permit marijuana smoking commercials on TV?
5. Why is there no limit on the number of pot shops that can be placed in a single neighborhood?

They've gotten it wrong, again. We strongly urge your "No" vote on Proposition 64.

To get the facts, visit *www.NoOn64.net*

DIANNE FEINSTEIN, United States Senator
DOUG VILLARS, President
California Association of Highway Patrolmen
C. DUANE DAUNER, President
California Hospital Association

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 64 ★

Look at the facts, not scare tactics from groups that always oppose marijuana reform.

- Some evidence has shown states with legalized marijuana have *less* youth marijuana use. Prop. 64 contains the nation's strictest child protections: warning labels, child-resistant packaging, and advertising restrictions, and it requires keeping marijuana out of public view, away from children.
- *Nothing* in 64 makes it legal to show marijuana ads on TV. Federal law prohibits it!
- It has not been definitively proven that impaired driving has *increased* in those states with legalized marijuana, and crash risk hasn't increased. Colorado's Department of Public Safety and National Highway Traffic Safety Administration both confirm this.

Vote Yes on 64 because:

- 64 invests hundreds of millions into equipment and law enforcement training to crack down on unsafe driving. It allocates new funds to develop comprehensive legal standards under direction of the California Highway Patrol for measuring driver impairment.
- 64 makes the protection of public health and safety the #1 priority of the regulators that determine who qualifies for a marijuana business license.
- 64 preserves local control.
- 64 builds on consumer protections signed by the Governor.

The independent Legislative Analyst's Office says 64 will raise revenue and decrease costs. Bipartisan lawmakers support 64 because it's based on best practices of states that have safely legalized.

"I don't use marijuana and I don't want my 17-year-old son to either. I'm voting Yes on 64 because it's clear it will protect children much better than what we have now," says Maria Alexander, Los Angeles mother.

Learn more at *YesOn64.org*.

REP. TED LIEU, Former Military Prosecutor
MARSHA ROSENBAUM, Ph.D., Co-Chair
Youth Education and Prevention Working Group,
Blue Ribbon Commission on Marijuana Policy
DR. LARRY BEDARD, Former President
American College of Emergency Physicians

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PROPOSITION

65 CARRYOUT BAGS. CHARGES. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Redirects money collected by grocery and certain other retail stores through sale of carryout bags, whenever any state law bans free distribution of a particular kind of carryout bag and mandates the sale of any other kind of carryout bag.
- Requires stores to deposit bag sale proceeds into a special fund administered by the Wildlife Conservation Board to support specified categories of environmental projects.
- Provides for Board to develop regulations implementing law.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Potential state revenue of several tens of millions of dollars annually under certain circumstances. Revenue would be used to support certain environmental programs.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Carryout Bag Usage. Stores typically provide their customers with bags to carry out the items they buy. One type of bag commonly provided is the "single-use plastic carryout bag," which refers to a thin plastic bag used at checkout that is not intended for continued reuse. In contrast, "reusable plastic bags" are thicker and sturdier so that they can be reused many times. Many stores also provide single-use paper bags. Stores frequently provide single-use paper and plastic carryout bags to customers for free, and some stores offer reusable bags for sale. Each year, roughly 15 billion single-use plastic carryout bags are provided to customers in California (an average of about 400 bags per Californian).

Many Local Governments Restrict Single-Use Carryout Bags. Many cities and counties in California have adopted local laws in recent years restricting or banning single-use carryout bags. These local laws have been implemented due to concerns about how the use of such bags can impact the environment. For example, plastic bags can contribute to litter and can end up in waterways. In addition, plastic bags can be difficult to recycle because they can get tangled in recycling machines. Most of these local laws ban single-use plastic carryout bags at grocery stores, convenience stores, pharmacies, and liquor stores. They also usually require the store to charge at least 10 cents for the sale of any carryout bag. Stores are allowed to keep the resulting revenue. As of June 2016, there were local carryout bag laws in about 150 cities and counties—covering about 40 percent of California's population—mostly in areas within coastal counties.

Statewide Carryout Bag Law. In 2014, the Legislature passed and the Governor signed a statewide carryout bag law, Senate Bill (SB) 270. Similar to many local laws, SB 270 prohibits most grocery stores, convenience stores, large pharmacies, and liquor stores in the state from providing single-use plastic carryout bags. It also requires a store to charge customers at least 10 cents for any carryout bag that it provides at checkout. Certain low-income customers would not have to pay the charge. Under SB 270, stores would retain the revenue from the sale of the bags. They could use the proceeds to cover the costs of providing carryout bags, complying with the measure, and educational efforts to encourage the use of reusable bags. These requirements would apply only to cities and counties that did not already have their own carryout bag laws as of the fall of 2014.

Referendum on SB 270. Under the State Constitution, a new state law can be placed before voters as a referendum to determine whether the law can go into effect. A referendum on SB 270 qualified for this ballot (Proposition 67). If the referendum passes, SB 270 will go into effect. If it does not pass, SB 270 will be repealed.

PROPOSAL

Redirects Carryout Bag Revenue to New State Environmental Fund. This measure specifies how revenue could be used that resulted from any state law that (1) prohibits giving certain carryout bags away for free and (2) requires a minimum charge for other types of carryout bags. Specifically, this measure requires that the resulting revenue be deposited in a new state fund—the Environmental Protection and Enhancement Fund—for various environmental purposes rather than be retained by stores. The fund would be used to support grants for programs and projects related to (1) drought mitigation; (2) recycling; (3) clean drinking water supplies; (4) state, regional, and local parks; (5) beach cleanup; (6) litter removal; and (7) wildlife habitat restoration. The measure allows a small portion of these funds to be used for grant administration and biennial audits of the programs receiving funds.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Other Provisions. Additionally, the measure allows local governments to require that money collected from local carryout bag laws go to the new state fund rather than allowing that revenue to be kept by stores. It also includes a provision regarding the implementation of this measure and any other carryout bag measure on this ballot. This provision could be interpreted by the courts as preventing Proposition 67 (the referendum on SB 270) from going into effect. This provision would only have an effect if both measures pass and this measure (Proposition 65) gets more "yes" votes. However, this analysis assumes that in this situation the provisions of Proposition 67 not related to the use of revenues—such as the requirement to ban single-use plastic carryout bags and charge for other bags—would still be implemented.

FISCAL EFFECTS

If the requirements of this measure (that there is a state law prohibiting giving certain carryout bags away for free and requiring a minimum charge for other bags) are met, then there would be increased state revenue for certain environmental programs. This revenue could reach several tens of millions of dollars annually. The actual amount of revenue could be higher or lower based on several factors, particularly future sales and prices of carryout bags.

At the present time, there is no state law in effect that meets this measure's requirements. As such, there would be no fiscal effect as long as that continued. As noted earlier, however, Proposition 67 on this ballot would enact such a state law. If both Proposition 67 and this measure (Proposition 65) pass, the impact on the state would depend on which one receives the most votes:

- ***Proposition 67 (Referendum) Receives More Votes.*** In this situation, revenue collected by the stores would be kept by the stores and there would not be a fiscal impact on the state related to Proposition 65.
- ***Proposition 65 (Initiative) Receives More Votes.*** In this situation, any revenue collected by stores from the sale of carryout bags would be transferred to the new state fund, with the increased state revenue used to support certain environmental programs.

In addition, if only this measure passes and Proposition 67 fails (which means there would not currently be a statewide law to which this measure would apply), there could still be a fiscal impact if a state carryout bag law was enacted in the future. Figure 1 shows how this measure would be implemented differently depending on different voter decisions.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

Figure 1
Implementation of Proposition 65 Would Be Affected by Outcome of Referendum

	Proposition 67 (SB 270 Referendum) Passes	**Proposition 67 (SB 270 Referendum)** Fails
Proposition 65 (Initiative) Passes	Statewide carryout bag law in effect. Use of revenues from sale of carryout bags depends on which proposition gets more votes: • If more **"yes"** votes for referendum, revenue is kept by stores. • If more **"yes"** votes for initiative, revenue goes to state for environmental programs.[a]	No statewide carryout bag law. Revenue from any future statewide law similar to SB 270 would be used for environmental programs.
Proposition 65 (Initiative) Fails	Statewide carryout bag law in effect and revenue from the sale of carryout bags is kept by stores.	No statewide carryout bag law.

[a] Alternatively, a provision of Proposition 65 could be interpreted by the courts as preventing Senate Bill (SB) 270 from going into effect at all.

For the full text of Proposition 65, see page 210.

★ ARGUMENT IN FAVOR OF PROPOSITION 65 ★

STOP THE SWEETHEART BAG TAX DEAL. HELP THE ENVIRONMENT

Proposition 65 is needed to STOP grocery stores from keeping all the money collected from carryout bag taxes as profit instead of helping the environment.

Grocery stores stand to gain up to $300 million in added profits each and every year unless you vote yes on Prop. 65.

That money should be dedicated to the environment, not more profits for corporate grocery chains.

Proposition 65 will STOP THE SWEETHEART DEAL WITH GROCERY STORES and dedicate bag fees to worthy environmental causes.

A SWEETHEART DEAL IN SACRAMENTO

Who in their right mind would let grocery stores keep $300 million in bag fees paid by hardworking California shoppers just trying to make ends meet?

The State Legislature!

In a sweetheart deal put together by special interest lobbyists, the Legislature voted to let grocery stores keep bag fees as *extra* profit.

The grocery stores will get $300 million richer while shoppers get $300 million poorer.

SHAME ON THE LOBBYISTS AND LEGISLATORS

The big grocery store chains and retailers gave big campaign contributions to legislators over the past seven years.

And legislators rewarded them with $300 million in new profits—all on the backs of shoppers.

Stop the sweetheart special interest deal . . . VOTE YES ON PROP. 65.

A BETTER WAY TO HELP THE ENVIRONMENT

You can do what the legislators should have done—dedicate these bag fees to real projects that protect the environment.

Proposition 65 dedicates the bag fees to environmental projects like drought relief, beach clean-up and litter removal.

It puts the California Wildlife Conservation Board in control of these funds, not grocery store executives, so Californians will benefit.

PROTECT THE ENVIRONMENT. STOP THE SWEETHEART DEAL AND HIDDEN BAG TAX.

VOTE YES ON PROP. 65.

THOMAS HUDSON, Executive Director
California Taxpayer Protection Committee
DEBORAH HOWARD, Executive Director
California Senior Advocates League

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 65 ★

The *San Jose Mercury News* calls Proposition 65 a "tricky strategy" and adds "Prop. 65 deserves consideration as one of the most disingenuous ballot measures in state history."

The out-of-state plastic manufacturers behind Prop. 65 don't care about protecting California's environment. They want to confuse you. Don't be fooled.

Bags aren't free; they cost your local grocer up to 15 cents each. The out-of-state plastic bag industry figures are bogus. The state's nonpartisan analysis projects that total revenue from Prop. 65 is in the range of "zero" to, at best, $80 million.

Remember: there will be "zero" funding for the environment from Prop. 65 unless voters approve Prop. 67 to phase out plastic bags.

But the plastic manufacturers behind Prop. 65 are spending millions to persuade voters to oppose Prop. 67. Confused? That's the plastic industry's plan!

If you care about protecting wildlife and standing up to the out-of-state plastic bag industry, Vote Yes on Prop. 67, not this measure.

If you care about reducing plastic pollution, litter and waste, Vote Yes on Prop. 67, not this measure.

If you care about reducing taxpayer costs for cleaning up plastic litter, Vote Yes on Prop. 67, not this measure.

MARK MURRAY, Executive Director
Californians Against Waste

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★ ARGUMENT AGAINST PROPOSITION 65 ★

THE SOLE PURPOSE OF PROP. 65 IS TO CONFUSE VOTERS

Prop. 65 promises a lot but—in reality—will deliver little for the environment. It was placed on the ballot by four out-of-state plastic bag companies who keep interfering with California's efforts to reduce plastic pollution.

65 is without real significance, designed to distract from the issue at hand: phasing out plastic shopping bags. All 65 would do is direct funding from the sale of paper bags (an option under the plastic bag ban) to a new state fund. The money for this fund is a drop in the bucket and will shrink over time as people adjust to bringing reusable bags.

TO ACTUALLY PROTECT OUR ENVIRONMENT, VOTE YES ON 67

The priority for California's environment this election is to reduce harmful plastic pollution by voting Yes on Prop. 67. This will continue efforts to keep wasteful plastic shopping bags out of our parks, trees, neighborhoods and treasured open spaces.

Prop. 65 is not worth your vote. Make your voice heard on the more important issues and uphold California's vital plastic bag ban further down the ballot.

MARK MURRAY, Executive Director
Californians Against Waste

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 65 ★

The opponents of Prop. 65 want to dismiss it as "of no real significance".

YOU DECIDE: IS A $300 MILLION MONEY GRAB BY GROCERY STORES NOT SIGNIFICANT?

Without Prop. 65, not one penny of the $300 million customers will be required to pay if California's ban on plastic bags goes into effect will help the environment.

All $300 million will go to grocery store profits. THAT'S $300 MILLION EVERY YEAR!

VOTE YES ON 65—STOP THE SWEETHEART GIVEAWAY TO GROCERS.

In a sweetheart deal put together by special interest lobbyists, the Legislature voted to BAN plastic bags and REQUIRE grocery stores keep bag fees as profit.

Their "plastic bag ban" REQUIRES grocery stores to charge every consumer given a bag at check-out no less than 10 cents per bag.

They could have banned plastic bags without a fee or dedicated fees to environmental projects.

They didn't.

Instead, they made grocery stores $300 million richer and shoppers $300 million poorer every year.

A BETTER WAY TO PROTECT THE ENVIRONMENT.

You can do what the Legislature should have done—dedicate bag fees to projects that protect the environment.

Prop. 65 dedicates bag fees to environmental projects like drought relief, beach clean-up and litter removal.

It puts the California Wildlife Conservation Board in control of these funds, not grocery store executives.

PROP. 65 WILL DEDICATE BAG FEES TO THE ENVIRONMENT.

It's simple and significant.

Join us—vote YES.

THOMAS HUDSON, Executive Director
California Taxpayer Protection Committee

DEBORAH HOWARD, Executive Director
California Senior Advocates League

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

PROPOSITION

66 DEATH PENALTY. PROCEDURES. INITIATIVE STATUTE.

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

- Changes procedures governing state court appeals and petitions challenging death penalty convictions and sentences.
- Designates superior court for initial petitions and limits successive petitions.
- Establishes time frame for state court death penalty review.
- Requires appointed attorneys who take noncapital appeals to accept death penalty appeals.
- Exempts prison officials from existing regulation process for developing execution methods.
- Authorizes death row inmate transfers among California prisons.
- Increases portion of condemned inmates' wages that may be applied to victim restitution.
- States other voter approved measures related to death penalty are void if this measure receives more affirmative votes.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Unknown ongoing fiscal impact on state court costs for processing legal challenges to death sentences.
- Near-term increases in state court costs—potentially in the tens of millions of dollars annually—due to an acceleration of spending to address new time lines on legal challenges to death sentences. Savings of similar amounts in future years.
- Potential state prison savings that could be in the tens of millions of dollars annually.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Death Sentences

First degree murder is generally defined as the unlawful killing of a human being that (1) is deliberate and premeditated or (2) takes place while certain other crimes are committed, such as kidnapping. It is punishable by a life sentence in state prison with the possibility of being released by the state parole board after a minimum of 25 years. However, current state law makes first degree murder punishable by death or life imprisonment without the possibility of parole when "special circumstances" of the crime have been charged and proven in court. Existing state law identifies a number of special circumstances that can be charged, such as in cases when the murder was carried out for financial gain or when more than one murder was committed. In addition to first degree murder, state law also specifies a few other crimes, such as treason against the state of California, that can also be punished by death. Since the current death penalty law was enacted in California in 1978, 930 individuals have received a death sentence. In recent years, an average of about 20 individuals annually have received death sentences.

Legal Challenges to Death Sentences

Two Ways to Challenge Death Sentences. Following a death sentence, defendants can challenge the sentence in two ways:

- ***Direct Appeals.*** Under current state law, death penalty verdicts are automatically appealed to the California Supreme Court. In these "direct appeals," the defendants' attorneys argue that violations of state law or federal constitutional law took place during the trial, such as evidence improperly being included or excluded from the trial. These direct appeals focus on the records of the court proceedings that resulted in the defendant receiving a death sentence. If the California Supreme Court confirms the conviction and death sentence, the defendant can ask the U.S. Supreme Court to review the decision.
- ***Habeas Corpus Petitions.*** In addition to direct appeals, death penalty cases ordinarily involve extensive legal challenges—first in the California Supreme Court and then in federal courts. These challenges, which are commonly referred to as "habeas corpus" petitions, involve factors of the case that are different from those considered in direct appeals. Examples of such factors include claims that (1) the defendant's attorney was ineffective or (2) if the jury had been aware of additional information (such as biological, psychological, or social factors faced by the defendant), it would not have sentenced the defendant to death.

Attorneys Appointed to Represent Condemned Inmates in Legal Challenges. The California Supreme Court appoints attorneys to represent individuals who have been sentenced to death but cannot afford

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

legal representation. These attorneys must meet qualifications established by the Judicial Council (the governing and policymaking body of the judicial branch). Some of these attorneys are employed by state agencies—specifically, the Office of the State Public Defender or the Habeas Corpus Resource Center. The remainder are private attorneys who are paid by the California Supreme Court. Different attorneys generally are appointed to represent individuals in direct appeals and habeas corpus petitions.

State Incurs Legal Challenge Costs. The state pays for the California Supreme Court to hear these legal challenges and for attorneys to represent condemned inmates. The state also pays for the attorneys employed by the state Department of Justice who seek to uphold death sentences while cases are being challenged in the courts. In total, the state currently spends about $55 million annually on the legal challenges to death sentences.

Legal Challenges Can Take a Couple of Decades. Of the 930 individuals who have received a death sentence since 1978, 15 have been executed, 103 have died prior to being executed, 64 have had their sentences reduced by the courts, and 748 are in state prison with death sentences. The vast majority of the 748 condemned inmates are at various stages of the direct appeal or habeas corpus petition process. These legal challenges—measured from when the individual receives a death sentence to when the individual has completed all state and federal legal challenge proceedings—can take a couple of decades to complete in California due to various factors. For example, condemned inmates can spend significant amounts of time waiting for the California Supreme Court to appoint attorneys to represent them. As of April 2016, 49 individuals were waiting for attorneys to be appointed for their direct appeals and 360 individuals were waiting for attorneys to be appointed for their habeas corpus petitions. In addition, condemned inmates can spend a significant amount of time waiting for their cases to be heard by the courts. As of April 2016, an estimated 337 direct appeals and 263 state habeas corpus petitions were pending in the California Supreme Court.

Implementation of the Death Penalty

Housing of Condemned Inmates. Condemned male inmates generally are required to be housed at San Quentin State Prison (on death row), while condemned female inmates are housed at the Central California Women's Facility in Chowchilla. The state currently has various security regulations and procedures that result in increased security costs for these inmates. For example, inmates under a death sentence generally are handcuffed and escorted at all times by one or two officers while outside their cells. In addition, unlike most inmates, condemned inmates are currently required to be placed in separate cells.

Executions Currently Halted by Courts. The state uses lethal injection to execute condemned inmates. However, because of different legal issues surrounding the state's lethal injection procedures, executions have not taken place since 2006. For example, the courts ruled that the state did not follow the administrative procedures specified in the Administrative Procedures Act when it revised its execution regulations in 2010. These procedures require state agencies to engage in certain activities to provide the public with a meaningful opportunity to participate in the process of writing state regulations. Draft lethal injection regulations have been developed and are currently undergoing public review.

PROPOSAL

This measure seeks to shorten the time that the legal challenges to death sentences take. Specifically, it (1) requires that habeas corpus petitions first be heard in the trial courts, (2) places time limits on legal challenges to death sentences, (3) changes the process for appointing attorneys to represent condemned inmates, and (4) makes various other changes. (There is another measure on this ballot—Proposition 62—that also relates to the death penalty. Proposition 62 would eliminate the death penalty for first degree murder.)

Requires Habeas Corpus Petitions First Be Heard in Trial Courts

The measure requires that habeas corpus petitions first be heard in trial courts instead of the California Supreme Court. (Direct appeals would continue to be heard in the California Supreme Court.) Specifically, these habeas corpus petitions would be heard by the judge who handled the original murder trial unless good cause is shown for another judge or court to hear the petition. The measure requires trial courts to explain in writing their decision on each petition, which could be appealed to the Courts of Appeal. The decisions made by the Courts of Appeal could then be appealed to the California Supreme Court. The measure allows the California Supreme Court to transfer any habeas corpus petitions currently pending before it to the trial courts.

For the full text of Proposition 66, see page 212.

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

Places Time Limits on Legal Challenges to Death Sentences

Requires Completion of Direct Appeal and Habeas Corpus Petition Process Within Five Years. The measure requires that the direct appeal and the habeas corpus petition process be completed within five years of the death sentence. The measure also requires the Judicial Council to revise its rules to help ensure that direct appeals and habeas corpus petitions are completed within this time frame. The five-year requirement would apply to new legal challenges, as well as those currently pending in court. For challenges currently pending, the measure requires that they be completed within five years from when Judicial Council adopts revised rules. If the process takes more than five years, victims or their attorneys could request a court order to address the delay.

Requires Filing of Habeas Corpus Petitions Within One Year of Attorney Appointment. The measure requires that attorneys appointed to represent condemned inmates in habeas corpus petitions file the petition with the trial courts within one year of their appointment. The trial court generally would then have one year to make a decision on the petition. If a petition is not filed within this time period, the trial court must dismiss the petition unless it determines that the defendant is likely either innocent or not eligible for the death sentence.

Places Other Limitations. In order to help meet the above time frames, the measure places other limits on legal challenges to death sentences. For example, the measure does not allow additional habeas corpus petitions to be filed after the first petition is filed, except in those cases where the court finds that the defendant is likely either innocent or not eligible for the death sentence.

Changes Process for Appointing Attorneys

The measure requires the Judicial Council and the California Supreme Court to consider changing the qualifications that attorneys representing condemned inmates must meet. According to the measure, these qualifications should (1) ensure competent representation and (2) expand the number of attorneys that can represent condemned inmates so that legal challenges to death sentences are heard in a timely manner. The measure also requires trial courts—rather than the California Supreme Court—to appoint attorneys for habeas corpus petitions.

In addition, the measure changes how attorneys are appointed for direct appeals under certain circumstances. Currently, the California Supreme Court appoints attorneys from a list of qualified attorneys it maintains. Under the measure, certain attorneys could also be appointed from the lists of attorneys maintained by the Courts of Appeal for non-death penalty cases. Specifically, those attorneys who (1) are qualified for appointment to the most serious non-death penalty appeals and (2) meet the qualifications adopted by the Judicial Council for appointment to death penalty cases would be required to accept appointment to direct appeals if they want to remain on the Courts of Appeal's appointment lists.

Makes Other Changes

Habeas Corpus Resources Center Operations. The measure eliminates the Habeas Corpus Resources Center's five-member board of directors and requires the California Supreme Court to oversee the center. The measure also requires that the center's attorneys be paid at the same level as attorneys at the Office of the State Public Defender, as well as limits its legal activities.

Inmate Work and Payments to Victims of Crime Requirements. Current state law generally requires that inmates work while they are in prison. State prison regulations allow for some exceptions to these requirements, such as for inmates who pose too great a security risk to participate in work programs. In addition, inmates may be required by the courts to make payments to victims of crime. Up to 50 percent of any money inmates receive is used to pay these debts. This measure specifies that every person under a sentence of death must work while in state prison, subject to state regulations. Because the measure does not change state regulations, existing prison practices related to inmate work requirements would not necessarily be changed. In addition, the measure requires that 70 percent of any money condemned inmates receive be used to pay any debts owed to victims.

Enforcement of Death Sentence. The measure allows the state to house condemned inmates in any prison. The measure also exempts the state's execution procedures from the Administrative Procedures Act. In addition, the measure makes various changes regarding the method of execution used by the state. For example, legal challenges to the method could only be heard in the court that imposed the death sentence. In addition, if such challenges were successful, the measure requires the trial court to order a valid method of execution. In cases where federal court orders prevent the state from using a given method of execution, the state prisons would be required to develop a method of execution that meets

federal requirements within 90 days. Finally, the measure exempts various health care professionals that assist with executions from certain state laws and disciplinary actions by licensing agencies, if those actions are imposed as a result of assisting with executions.

FISCAL EFFECTS

State Court Costs

Impact on Cost Per Legal Challenge Uncertain. The fiscal impact of the measure on state court-related costs of each legal challenge to a death sentence is uncertain. This is because the actual cost could vary significantly depending on four key factors: (1) the complexity of the legal challenges filed, (2) how state courts address existing and new legal challenges, (3) the availability of attorneys to represent condemned inmates, and (4) whether additional attorneys will be needed to process each legal challenge.

On the one hand, the measure could reduce the cost of each legal challenge. For example, the requirement that each challenge generally be completed in five years, as well as the limits on the number of habeas corpus petitions that can be filed, could result in the filing of fewer, shorter legal documents. Such a change could result in each legal challenge taking less time and state resources to process.

On the other hand, some of the measure's provisions could increase state costs for each legal challenge. For example, the additional layers of review required for a habeas corpus petition could result in additional time and resources for the courts to process each legal challenge. In addition, there could be additional attorney costs if the state determines that a new attorney must be appointed when a habeas corpus petition ruling by the trial courts is appealed to the Courts of Appeal.

In view of the above, the ongoing annual fiscal impact of the measure on state costs related to legal challenges to death sentences is unknown.

Near-Term Annual Cost Increases From Accelerated Spending on Existing Cases. Regardless of how the measure affects the cost of each legal challenge, the measure would accelerate the amount the state spends on legal challenges to death sentences. This is because the state would incur annual cost increases in the near term to process hundreds of pending legal challenges within the time limits specified in the measure. The state would save similar amounts in future years as some or all of these costs would have otherwise occurred over a much longer term absent this measure. Given the significant number of pending cases that would need to be addressed, the actual amount and duration of these accelerated costs in the near term is unknown. It is possible, however, that such costs could be in the tens of millions of dollars annually for many years.

State Prisons

To the extent that the state changes the way it houses condemned inmates, the measure could result in state prison savings. For example, if male inmates were transferred to other prisons instead of being housed in single cells at San Quentin, it could reduce the cost of housing and supervising these inmates. In addition, to the extent the measure resulted in additional executions that reduced the number of condemned inmates, the state would also experience additional savings. In total, such savings could potentially reach the tens of millions of dollars annually.

Other Fiscal Effects

To the extent that the changes in this measure have an effect on the incidence of murder in California or how often prosecutors seek the death penalty in murder trials, the measure could affect state and local government expenditures. The resulting fiscal impact, if any, is unknown and cannot be estimated.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

For the full text of Proposition 66, see page 212.

★ ARGUMENT IN FAVOR OF PROPOSITION 66 ★

California's elected law enforcement leaders, police officers, frontline prosecutors, and the families of murder victims ask you to REFORM the California death penalty system by voting YES ON PROPOSITION 66!

We agree California's current death penalty system is broken. The most heinous criminals sit on death row for 30 years, with endless appeals delaying justice and costing taxpayers hundreds of millions.

It does not need to be this way.

The solution is to MEND, NOT END, California's death penalty.

The solution is YES on PROPOSITION 66.

Proposition 66 was written to speed up the death penalty appeals system while ensuring that no innocent person is ever executed.

Proposition 66 means the worst of the worst killers receive the strongest sentence.

Prop. 66 brings closure to the families of victims.

Proposition 66 protects public safety—these brutal killers have no chance of ever being in society again.

Prop. 66 saves taxpayers money, because heinous criminals will no longer be sitting on death row at taxpayer expense for 30+ years.

Proposition 66 was written by frontline death penalty prosecutors who know the system inside and out. They know how the system is broken, and they know how to fix it. It may sound complicated, but the reforms are actually quite simple.

HERE'S WHAT PROPOSITION 66 DOES:

1. All state appeals should be limited to 5 years.
2. Every murderer sentenced to death will have their special appeals lawyer assigned immediately. Currently, it can be five years or more before they are even assigned a lawyer.
3. The pool of available lawyers to handle these appeals will be expanded.
4. The trial courts who handled the death penalty trials and know them best will deal with the initial appeals.
5. The State Supreme Court will be empowered to oversee the system and ensure appeals are expedited while protecting the rights of the accused.
6. The State Corrections Department (Prisons) will reform death row housing; taking away special privileges from these brutal killers and saving millions.

Together, these reforms will save California taxpayers over $30,000,000 annually, according to former California Finance Director Mike Genest, while making our death penalty system work again.

WE NEED A FUNCTIONING DEATH PENALTY SYSTEM IN CALIFORNIA

Death sentences are issued rarely and judiciously, and only against the very worst murderers.

To be eligible for the death penalty in California, you have to be guilty of first-degree murder with "special circumstances."

These special circumstances include, in part:

- Murderers who raped/tortured their victims.
- Child killers.
- Multiple murderers/serial killers.
- Murders committed by terrorists; as part of a hate-crime; or killing a police officer.

There are nearly 2,000 murders in California annually. Only about 15 death penalty sentences are imposed.

But when these horrible crimes occur, and a jury unanimously finds a criminal guilty and separately, unanimously recommends death, the appeals should be heard within five years, and the killer executed.

Help us protect California, provide closure to victims, and save taxpayers millions.

Visit *www.NoProp62YesProp66.com* for more information.

Then join law enforcement and families of victims and vote YES ON PROPOSITION 66!

JACKIE LACEY, District Attorney of Los Angeles County
KERMIT ALEXANDER, Family Member of Multiple Homicide Victims
SHAWN WELCH, President
Contra Costa County Deputy Sheriffs Association

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 66 ★

Prop. 66 is a poorly-written and COSTLY EXPERIMENT that would INCREASE CALIFORNIA'S RISK OF EXECUTING AN INNOCENT PERSON, add new layers of government bureaucracy and create even more legal delays in death penalty cases.

**Read the measure for yourself: According to the state's nonpartisan Legislative Analyst's Office, this measure could cost taxpayers TENS of MILLIONS of DOLLARS.

Prop. 66 is not real reform. Here's what EXPERTS SAY Prop. 66 WOULD ACTUALLY DO:

- INCREASE the chance that California executes an innocent person
- INCREASE TAXPAYER FUNDED legal defense for death row inmates
- REQUIRE the state to hire and pay for hundreds of new lawyers
- LEAD TO CONSTRUCTION of new TAXPAYER FUNDED DEATH ROW facilities
- CLOG county courts, forcing death penalty cases on inexperienced judges
- Lead to EXPENSIVE LITIGATION by lawyers who will challenge a series of confusing provisions

Prop. 66 is a perfect example of SPECIAL INTEREST GROUPS abusing their power and pushing an agenda while claiming to seek reform. Look who's behind Prop. 66: the prison guards' union which has an interest in funneling more money into the prison system and opportunistic politicians using the initiative to advance their careers.

Experts agree: Prop. 66 is a POORLY WRITTEN, CONFUSING initiative that will only add MORE DELAY and MORE COSTS to California's death penalty.

Remember, MORE THAN 150 INNOCENT PEOPLE HAVE BEEN SENTENCED TO DEATH, and some have been executed because of poorly written laws like this.

Californians deserve real reform. Prop. 66 is not the answer.

www.NOonCAProp66.org

GIL GARCETTI, District Attorney
Los Angeles County, 1992–2000
JUDGE LADORIS CORDELL, (Retired)
Santa Clara County Superior Court
HELEN HUTCHISON, President
League of Women Voters of California

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★ ARGUMENT AGAINST PROPOSITION 66 ★

Prop. 66 WASTES TENS OF MILLIONS OF TAXPAYER DOLLARS.

Evidence shows MORE THAN 150 INNOCENT PEOPLE HAVE BEEN SENTENCED TO DEATH, and some have been executed because of poorly written laws like this one.

Prop. 66 is so confusing and poorly written that we don't know all of its consequences. We do know this: it will add more layers of government bureaucracy causing more delays, cost taxpayers money, and increase California's risk of executing an innocent person.

Experts agree: Prop. 66 is DEEPLY FLAWED.

** PROP. 66 COULD INCREASE TAXPAYER COSTS BY MILLIONS.

According to nonpartisan analysis, Prop. 66 could cost "tens of millions of dollars annually" with "unknown" costs beyond that. Read the LAO's report posted at *www.NoOnCAProp66.org/cost*.

Experts say Prop. 66 will:

- INCREASE PRISON SPENDING while schools, social services, and other priorities suffer.
- INCREASE TAXPAYER-FUNDED legal defense for death row inmates, requiring the state to hire as many as 400 new taxpayer-funded attorneys.
- LEAD TO CONSTRUCTION of new TAXPAYER-FUNDED DEATH ROW facilities. This initiative authorizes the state to house death row inmates in new prisons, anywhere in California.
- Lead to EXPENSIVE LITIGATION by lawyers who will challenge a series of poorly written provisions.

"Prop. 66 is so flawed that it's impossible to know for sure all the hidden costs it will inflict on California taxpayers."—*John Van de Kamp, former Attorney General of California.*

** PROP. 66 WOULD INCREASE CALIFORNIA'S RISK OF EXECUTING AN INNOCENT PERSON.

Instead of making sure everyone gets a fair trial with all the evidence presented, this measure REMOVES IMPORTANT LEGAL SAFEGUARDS and could easily lead to fatal mistakes.

This measure is modeled after laws from states like Texas, where authorities have executed innocent people.

People like Cameron Willingham and Carlos De Luna, both executed in Texas.

Experts now say they were innocent.

Prop. 66 will:

- LIMIT the ability to present new evidence of innocence in court.
- LEAVE people who can't afford a good attorney vulnerable to mistakes.
- CLOG local courts by moving death penalty cases there, adding new layers of bureaucracy and placing high profile cases in the hands of inexperienced judges and attorneys. This would lead to costly mistakes.

"If someone's executed and later found innocent, we can't go back."—*Judge LaDoris Cordell, Santa Clara (retired).*

** A CONFUSING AND POORLY WRITTEN INITIATIVE THAT WILL ONLY CAUSE MORE DELAY.

Prop. 66 is a misguided experiment that asks taxpayers to increase the costs of our justice and prison systems by MILLIONS to enact poorly-written reforms that would put California at risk.

SF Weekly stated, "Combing through the initiative's 16 pages is like looking through the first draft of an undergraduate paper. The wording is vague, unfocused and feels tossed off."

Instead of adding new layers of government bureaucracy and increasing costs, we deserve real reform of our justice system. Prop. 66 is not the answer.

"Instead of reckless, costly changes to our prison system, we need smart investments that are proven to reduce crime and serve victims."—*Dionne Wilson, widow of police officer killed in the line of duty.*

JEANNE WOODFORD, Warden
California's Death Row prison, 1999–2004

FRANCISCO CARRILLO JR., Innocent man wrongfully convicted in Los Angeles County

HON. ANTONIO R. VILLARAIGOSA, Mayor
City of Los Angeles, 2005–2013

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 66 ★

Proposition 66 was carefully written by California's leading criminal prosecutors, the Criminal Justice Legal Foundation and other top legal experts—people who know from experience what's needed to MEND, NOT END our state's broken death penalty system.

The anti-death penalty extremists opposing Proposition 66 know it fixes the system, and will say anything to defeat it. Don't be fooled.

Proposition 66 reforms the death penalty so the system is fair to both defendants and the families of victims. Defendants now wait five years just to be assigned a lawyer, delaying justice, hurting their appeals, and preventing closure for the victims' families. Proposition 66 fixes this by streamlining the process to ensure justice for all.

Under the current system, California's most brutal killers—serial killers, mass murderers, child killers, and murderers who rape and torture their victims—linger on death row until they die of old age, with taxpayers paying for their meals, healthcare, privileges and endless legal appeals.

By reforming the system, Proposition 66 will save taxpayers over $30 million a year, according to former California Finance Director Mike Genest. Instead of dragging on for decades and costing millions, death row killers will have five to ten years to have their appeals heard, ample time to ensure justice is evenly applied while guaranteeing that no innocent person is wrongly executed.

Ensure justice by voting "YES" on Proposition 66—to MEND, NOT END the death penalty.

Learn more at *www.NoProp62YesProp66.com.*

ANNE MARIE SCHUBERT, District Attorney of Sacramento County

SANDY FRIEND, Mother of Murder Victim

CHUCK ALEXANDER, President
California Correctional Peace Officers Association

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PROPOSITION

67 BAN ON SINGLE-USE PLASTIC BAGS. REFERENDUM.

67

OFFICIAL TITLE AND SUMMARY

PREPARED BY THE ATTORNEY GENERAL

A "Yes" vote approves, and a "No" vote rejects, a statute that:

- Prohibits grocery and certain other retail stores from providing single-use plastic or paper carryout bags to customers at point of sale.
- Permits sale of recycled paper bags and reusable bags to customers, at a minimum price of 10 cents per bag.

SUMMARY OF LEGISLATIVE ANALYST'S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Relatively small fiscal effects on state and local governments. Minor increase of less than a million dollars annually for state administrative costs, offset by fees. Possible minor savings to local governments from reduced litter and waste management costs.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Carryout Bag Usage. Stores typically provide their customers with bags to carry out the items they buy. One type of bag commonly provided is the "single-use plastic carryout bag," which refers to a thin plastic bag used at checkout that is not intended for continued reuse. In contrast, "reusable plastic bags" are thicker and sturdier so that they can be reused many times. Many stores also provide single-use paper bags. Stores frequently provide single-use paper and plastic carryout bags to customers for free, and some stores offer reusable bags for sale. Each year, roughly 15 billion single-use plastic carryout bags are provided to customers in California (an average of about 400 bags per Californian).

Many Local Governments Restrict Single-Use Carryout Bags. Many cities and counties in California have adopted local laws in recent years restricting or banning single-use carryout bags. These local laws have been implemented due to concerns about how the use of such bags can impact the environment. For example, plastic bags contribute to litter and can end up in waterways. In addition, plastic bags can be difficult to recycle because they can get tangled in recycling machines. Most of these local laws ban single-use plastic carryout bags at grocery stores, convenience stores, pharmacies, and liquor stores. They also usually require the store to charge at least 10 cents for the sale of any carryout bag. Stores are allowed to keep the resulting revenue. As of June 2016, there were local carryout bag laws in about 150 cities and counties—covering about 40 percent of California's population—mostly in areas within coastal counties.

Passage of Statewide Carryout Bag Law. In 2014, the Legislature passed and the Governor signed a statewide carryout bag law, Senate Bill (SB) 270. As described in more detail below, the law prohibits certain stores from providing single-use plastic carryout bags. It also requires these stores to charge customers for any other carryout bag provided at checkout.

PROPOSAL

Under the State Constitution, a new state law can be placed before voters as a referendum to determine whether the law can go into effect. This proposition is a referendum on SB 270. Below, we describe what a "yes" and "no" vote would mean for this measure, its major provisions, and how this measure could be affected by another proposition on this ballot.

What a "Yes" and "No" Vote Mean

"Yes" Vote Upholds SB 270. Certain stores would be prohibited from providing single-use plastic carryout bags and generally required to charge at least 10 cents for other carryout bags. These requirements would apply only to cities and counties that did not already have their own single-use carryout bag laws as of the fall of 2014.

"No" Vote Rejects SB 270. A store could continue to provide single-use plastic carryout bags and other bags free of charge unless it is covered by a local law that restricts the use of such bags.

Main Provisions of Measure

Prohibits Single-Use Plastic Carryout Bags. This measure prohibits most grocery stores, convenience stores, large pharmacies, and liquor stores in the state from providing single-use plastic carryout bags. This provision does not apply to plastic bags used for certain purposes—such as bags for unwrapped produce.

Creates New Standards for Reusable Plastic Carryout Bags. This measure also creates new standards for the material content and durability of reusable plastic carryout bags. The California Department of Resources Recovery and Recycling (CalRecycle) would be responsible for ensuring that bag manufacturers

ANALYSIS BY THE LEGISLATIVE ANALYST

CONTINUED

meet these requirements. The measure also defines standards for other types of carryout bags.

Requires Charge for Other Carryout Bags. This measure generally requires a store to charge at least 10 cents for any carryout bag that it provides to consumers at checkout. This charge would not apply to bags used for certain purposes—such as bags used for prescription medicines. In addition, certain low-income customers would not have to pay this charge. Under the measure, stores would retain the revenue from the sale of the bags. They could use the proceeds to cover the costs of providing carryout bags, complying with the measure, and educational efforts to encourage the use of reusable bags.

Another Proposition on This Ballot Could Affect Implementation of This Measure

This ballot includes another measure—Proposition 65—that could direct revenue from carryout bag sales to the state if approved by voters. Specifically, Proposition 65 requires that revenue collected from a state law to ban certain bags and charge fees for other bags (like SB 270 does) would have to be sent to a new state fund to support various environmental programs.

If both measures pass, the use of the revenues from carryout bag sales would depend on which measure receives more votes. Figure 1 shows how the major provisions of SB 270 would be implemented differently depending on different voter decisions on the two measures. Specifically, if Proposition 67 (this referendum on SB 270) gets more "yes" votes, the revenue would be kept by stores for specified purposes. However, if Proposition 65 (initiative) gets more "yes" votes, the revenue would be used for environmental programs. We note that Proposition 65 includes a provision that could be interpreted by the courts as preventing SB 270 from going into effect at all should both measures pass and Proposition 65 gets more "yes" votes. However, this analysis assumes that the other provisions of SB 270 not related to the use of revenues—such as the requirement to ban single-use plastic carryout bags and charge for other bags—would still be implemented.

FISCAL EFFECTS

Minor State and Local Fiscal Effects. This measure would have relatively small fiscal effects on state and local governments. Specifically, the measure would result in a minor increase of less than a million dollars annually in state costs for CalRecycle to ensure that bag manufacturers meet the new reusable plastic bags requirements. These costs would be offset by fees charged to makers of these bags. The measure could also result in other fiscal effects—such as minor savings to local governments from reduced litter cleanup and waste management costs.

Visit *http://www.sos.ca.gov/measure-contributions* for a list of committees primarily formed to support or oppose this measure. Visit *http://www.fppc.ca.gov/transparency/top-contributors/nov-16-gen-v2.html* to access the committee's top 10 contributors.

Figure 1

Implementation of Referendum Would Be Affected by Outcome of Proposition 65

	Proposition 67 (SB 270 Referendum) Passes	**Proposition 67 (SB 270 Referendum)** Fails
Proposition 65 (Initiative) Passes	Statewide carryout bag law in effect. Use of revenues from sale of carryout bags depends on which proposition gets more votes: • If more **"yes"** votes for referendum, revenue is kept by stores. • If more **"yes"** votes for initiative, revenue goes to state for environmental programs.[a]	No statewide carryout bag law. Revenue from any future statewide law similar to SB 270 would be used for environmental programs.
Proposition 65 (Initiative) Fails	Statewide carryout bag law in effect and revenue from the sale of carryout bags is kept by stores.	No statewide carryout bag law.

[a] Alternatively, a provision of Proposition 65 could be interpreted by the courts as preventing Senate Bill (SB) 270 from going into effect at all.

For the full text of Proposition 67, see page 218.

★ ARGUMENT IN FAVOR OF PROPOSITION 67 ★

YES on 67 to REDUCE LITTER, PROTECT OUR OCEAN and WILDLIFE, and REDUCE CLEAN-UP COSTS.

Single-use plastic shopping bags create some of the most visible litter that blows into our parks, trees and neighborhoods, and washes into our rivers, lakes and ocean. A YES vote will help keep discarded plastic bags out of our mountains, valleys, beaches and communities, and keep them beautiful. The law also will save our state and local communities tens of millions of dollars in litter clean-up costs.

PLASTIC BAGS ARE A DEADLY THREAT TO WILDLIFE.

"Plastic bags harm wildlife every day. Sea turtles, sea otters, seals, fish and birds are tangled by plastic bags; some mistake bags for food, fill their stomachs with plastics and die of starvation. YES on 67 is a common-sense solution to reduce plastic in our ocean, lakes and streams, and protect wildlife."—Julie Packard, Executive Director, Monterey Bay Aquarium

YES on 67 CONTINUES CALIFORNIA'S SUCCESS IN PHASING OUT PLASTIC BAGS.

A YES vote will keep in place a law passed by the Legislature and signed by the Governor that will stop the distribution of wasteful single-use plastic shopping bags. This law has strong support from organizations that are committed to protecting the ocean, wildlife, consumers, and small businesses.

It will be fully implemented statewide once voters approve Prop. 67.

Many local communities are already phasing out plastic bags. In fact, nearly 150 local cities and counties have banned single-use plastic bags. These laws have already been a success; some communities have seen a nearly 90 percent reduction in single-use bags, as well as strong support from consumers.

OUT-OF-STATE PLASTIC BAG COMPANIES ARE OPPOSING CALIFORNIA'S PROGRESS.

Opposition to this law is funded by four large out-of-state plastic bag companies. They don't want California to take leadership on plastic bag waste, and are trying to defeat this measure to protect their profits.

Don't believe their false claims. We should give California's plastic bag law a chance to work, especially with so much success already at the local level.

YES on 67 to PROTECT CALIFORNIA'S PLASTIC BAG LITTER REDUCTION LAW.

JULIE PACKARD, Executive Director
Monterey Bay Aquarium

JOHN LAIRD, Chairperson
California Ocean Protection Council

SCOTT SMITHLINE, Director
California Department of Resources Recycling and Recovery

★ REBUTTAL TO ARGUMENT IN FAVOR OF PROPOSITION 67 ★

WE ALL WANT TO PROTECT THE ENVIRONMENT, BUT PROP. 67 IS A FRAUD.

It is a $300 million per year HIDDEN BAG TAX on California consumers who will be forced to pay a minimum 10 cents for every paper and thick plastic grocery bag they are given at checkout.

AND NOT ONE PENNY WILL GO TO THE ENVIRONMENT.

Instead, the Legislature gave all $300 million in new bag tax revenue to grocers as extra profit.

THAT'S $300 MILLION EVERY YEAR!

STOP THE SPECIAL INTEREST SWEETHEART DEAL.

In a sweetheart deal brokered by special interest lobbyists, Proposition 67 will grow profits for grocery stores by up to $300 million a year.

Big grocery store chains get to keep ALL of the new tax revenue.

Grocers will grow $300 million richer every year on the backs of consumers.

DON'T BE FOOLED: NOT ONE PENNY OF THE BAG BAN TAX GOES TO THE ENVIRONMENT.

The Legislature could have dedicated the new tax revenue to protect the environment, but their goal wasn't to protect the environment . . . IT WAS ABOUT GROWING PROFITS FOR GROCERY STORES AND LABOR UNIONS.

The measure SPECIFICALLY REQUIRES GROCERS TO KEEP ALL OF THE NEW TAX AS PROFIT!

STOP THE SWEETHEART DEAL AND HIDDEN BAG TAX.

VOTE NO ON PROP. 67.

DOROTHY ROTHROCK, President
California Manufacturers & Technology Association

THOMAS HUDSON, Executive Director
California Taxpayer Protection Committee

DEBORAH HOWARD, Executive Director
California Senior Advocates League

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

★ ARGUMENT AGAINST PROPOSITION 67 ★

DON'T BE FOOLED BY PROP. 67.

It is a $300 million per year HIDDEN TAX INCREASE on California consumers who will be forced to pay a minimum 10 cents for every paper and thick plastic grocery bag they are given at the checkout.

And not one penny goes to the environment.

Instead, the Legislature gave all $300 million in new tax revenue to grocers as extra profit.

Stop the sweetheart special interest deal . . . VOTE NO ON PROP. 67.

STOP THE BAG TAX

Prop. 67 bans the use of plastic retail bags and REQUIRES grocers to charge and keep a minimum 10 cent tax on every paper or thicker plastic reusable bag provided at checkout.

Consumers will pay $300 million more every year just to use shopping bags grocery stores used to provide for free.

TAX REVENUE GOES TO GROCERS, SPECIAL INTERESTS

Proposition 67 will grow profits for grocery stores by up to $300 million a year.

Big grocery store chains get to keep all of the tax revenue.

Grocers will grow $300 million richer on the backs of consumers.

NOT ONE PENNY OF THE BAG TAX GOES TO HELP THE ENVIRONMENT

The Legislature could have dedicated the new tax revenue to protect the environment, but it did not.

Instead, it REQUIRED grocery stores to keep the new bag tax revenue.

STOP THE SPECIAL INTEREST BAG TAX DEAL

Prop. 67 is a deal cooked up by special interest lobbyists in Sacramento to grow profits for grocery stores.

The Legislature passed SB 270 and hidden in the fine print is a NEW BAG TAX on consumers—a minimum 10 cents on every paper and thick plastic reusable bag provided to shoppers—all dedicated to grocer profits.

STOP THE SWEETHEART DEAL AND HIDDEN BAG TAX

VOTE NO ON PROP. 67.

DOROTHY ROTHROCK, President
California Manufacturers & Technology Association

THOMAS HUDSON, Executive Director
California Taxpayer Protection Committee

DEBORAH HOWARD, Executive Director
California Senior Advocates League

★ REBUTTAL TO ARGUMENT AGAINST PROPOSITION 67 ★

A YES vote on 67 confirms that California can move forward with its ban on plastic grocery bags. It's that simple.

Don't be fooled by the deceptive campaign waged by plastic bag corporations from Texas and South Carolina, who claim they are looking out for our environment. Phasing out single-use plastic bags brings major benefits to California.

These bags kill wildlife, pollute our oceans, ruin recycling machines, and cause litter that is expensive to clean up.

Many local communities across California have already phased out plastic grocery bags, and a YES vote would continue this progress.

"Don't buy the industry spin! . . . shoppers can avoid the 10-cent fee on paper or reusable plastic bags simply by bringing their own."—The Los Angeles Times editorial board

"Across California, small local grocery stores like ours support a YES vote on Prop. 67. In our local community, we have a ban on single-use plastic bags that is working well. Our customers are bringing their own reusable bags, and are happy to do their part to reduce unneeded plastic litter. It's good for small businesses and consumers."—Roberta Cruz, La Fruteria Produce

"Californians are smarter than the plastic bag makers, especially those from out of state, seem to think."—Sacramento Bee Editorial Board

Vote YES on 67 to protect California's success in phasing out plastic bag litter and waste.

DOLORES HUERTA, Co-Founder
United Farm Workers

SAM LICCARDO, Mayor
City of San Jose

MARY LUÉVANO, Commissioner
California Coastal Commission

Arguments printed on this page are the opinions of the authors, and have not been checked for accuracy by any official agency.

OVERVIEW OF STATE BOND DEBT

PREPARED BY THE LEGISLATIVE ANALYST

This section describes the state's bond debt. It also discusses how Proposition 51—the $9 billion school bond proposal—would affect state bond costs.

Background

What Are Bonds? Bonds are a way that governments and companies borrow money. The state government uses bonds primarily to pay for the planning, construction, and renovation of infrastructure projects such as bridges, dams, prisons, parks, schools, and office buildings. The state sells bonds to investors to receive "up-front" funding for these projects and then repays the investors, with interest, over a period of time.

Why Are Bonds Used? One reason for issuing bonds is that the large costs of infrastructure projects can be difficult to pay for all at once. Additionally, infrastructure typically provides services over many years. Thus, it is reasonable for people, both currently and in the future, to help pay for these projects.

What Are the Main Types of Bonds? The two main types of bonds used by the state are general obligation bonds and revenue bonds. The state repays general obligation bonds using the state General Fund. The General Fund is the state's main operating account, which it uses to pay for education, prisons, health care, and other services. The General Fund is supported primarily by income and sales tax revenues. Under the California Constitution, state general obligation bonds must be approved by voters.

In contrast, the state repays revenue bonds typically using revenue from the fees or other charges paid by the users of the project (such as from bridge tolls). In other cases, certain revenue bonds are paid using the state General Fund. Under current law, state revenue bonds do not require voter approval. (We note that Proposition 53, described earlier in this voter guide, would require state revenue bonds totaling more than $2 billion for a single state project to receive statewide voter approval.)

What Are the Costs of Bond Financing? After selling bonds, the state makes annual payments until the bonds are paid off. The annual cost of repaying bonds depends primarily on the interest rate and the time period over which the bonds have to be repaid. The state often makes bond payments over a 30-year period (similar to many homeowners making payments on their mortgages). Assuming an interest rate of 5 percent, for each $1 borrowed the state would pay close to $2 over a typical 30-year repayment period. Of that $2 amount, $1 would go toward repaying the amount borrowed (the principal) and close to $1 for interest. However, because the repayment for each bond is spread over the entire 30-year period, the cost after adjusting for inflation is much less—about $1.30 for each $1 borrowed.

Infrastructure Bonds and the State Budget

Amount of General Fund Debt. The state has about $85 billion of General Fund-supported infrastructure bonds outstanding—that is, bonds on which it is making principal and interest payments. In addition, the voters and the Legislature have approved about $31 billion of General Fund-supported bonds that have not yet been sold. Most of these bonds are expected to be sold in the coming years as additional projects need funding. In 2015–16, the General

Fund's infrastructure bond repayments totaled close to $6 billion.

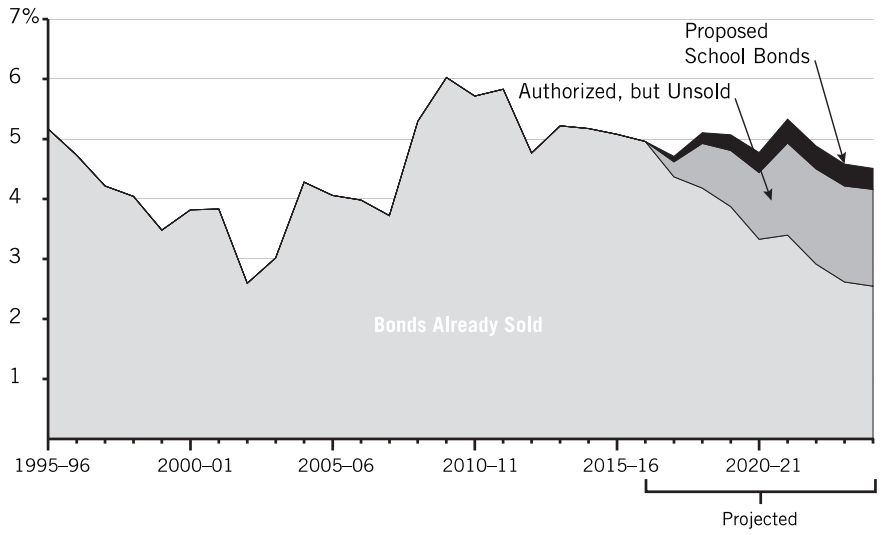
This Election's Impact on Debt Payments. The school bond proposal on this ballot (Proposition 51) would allow the state to borrow an additional $9 billion by selling general obligation bonds to investors. The amount needed to pay the principal and interest on these bonds, also known as the debt service, would depend on the specific details of the bond sales. We assume an interest rate of 5 percent, that the bonds would be issued over a five-year period, and that the bonds would be repaid over 30 years. Based on these assumptions, the estimated average annual General Fund cost would be about $500 million, about 8 percent more than the state currently spends from the General Fund for debt service. We estimate that the measure would require total debt-service payments of about $17.6 billion over the 35-year period during which the bonds would be paid off.

This Election's Impact on the Debt-Service Ratio (DSR). One indicator of the state's debt situation is its DSR. This ratio indicates the portion of the state's annual General Fund revenues that must be set aside for debt-service payments on infrastructure bonds and, therefore, are not available for other state programs. As shown in Figure 1, the DSR is now about 5 percent of annual General Fund revenues. If voters do not approve the proposed school bond on this ballot, we project that the state's debt service on already authorized bonds will likely remain at about 5 percent over the next several years, and decline thereafter. If voters approve the proposed school bond on this ballot, we project it would increase the DSR by about one-third of a percentage point compared to what it would otherwise have been. The state's future DSR would be higher than those shown in the figure if the state and voters approve additional bonds in the future.

Figure 1

General Fund Debt-Service Ratio

Percent of General Fund Revenues Spent on Debt Service



Information About Candidate Statements

In This Guide

This voter guide includes information about U.S. Senate candidates which begins on page 117 of this guide.

United States Senate candidates can buy space for their candidate statement in this voter guide. Some candidates, however, choose not to buy space for a statement.

The candidates for U.S. Senate are:

Kamala D. Harris	Democratic
Loretta L. Sanchez	Democratic

In Your Sample Ballot Booklet (Mailed Separately From Your County Registrar)

In addition to the candidates in this guide, your ballot may include State Senate, State Assembly, and U.S. House of Representatives candidates.

State Senate and State Assembly candidates may buy space for a candidate statement in the county sample ballot booklets IF they agree to keep their campaign spending under a certain dollar amount described below.

- State Senate candidates may spend no more than $1,269,000 in the general election
- State Assembly candidates may spend no more than $987,000 in the general election

A list of candidates who accepted California's voluntary campaign spending limits is available at *www.sos.ca.gov/elections/candidate-statements*

California's voluntary campaign spending limits do not apply to candidates for federal offices including President, U.S. Senate, and the U.S. House of Representatives.

All U.S. House of Representatives candidates may buy space for a candidate statement in county sample ballot booklets. Some candidates, however, choose not to buy space for a statement.

For the certified list of statewide candidates, go to *www.sos.ca.gov/elections/candidate-statements*

U.S. Presidential Candidates

Information on candidates running for President will be available on the Secretary of State's Voter Information Guide website. Visit *www.voterguide.sos.ca.gov* for more details.

CANDIDATE STATEMENTS

UNITED STATES SENATE

- Serves as one of two Senators who represent California's interests in the United States Congress.
- Proposes and votes on new national laws.
- Votes on confirming federal judges, U.S. Supreme Court Justices, and many high-level presidential appointments to civilian and military positions.

Kamala D. Harris | DEMOCRATIC

I am running for the United States Senate because I believe it is time to repair the ladder of opportunity for more Californians and more Americans. As a lifelong prosecutor, I have always served just one client: The People of California. As District Attorney of San Francisco and California Attorney General, I've proudly stood up to powerful interests on behalf of the people and won real victories for our families. I took on violent predators, including the transnational criminal organizations and human traffickers who profit from exploiting women and children. I prosecuted polluters and big oil companies, took on the big Wall Street banks and worked across the aisle to pass the nation's toughest anti-foreclosure law to protect our homeowners. As California's United States Senator, I will continue to fight hard for the people and cut through the gridlock that pervades Washington. I will work to create the jobs our people need by bringing home federal dollars that will repair our crumbling water and transportation systems. I'll fight for better schools and to give every child access to pre-kindergarten and affordable childcare. With student loan debt crippling college graduates, I'll fight for refinancing and reform that makes college more affordable for all students. I will stand up for our veterans who deserve quality health care and job training when they come home. I'll defend our environment and coast and lead the fight against climate change. Please join me. Thank you for your consideration.

4311 Wilshire Blvd., Suite 200
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Tel: (213) 221-1269
Email: info@KamalaHarris.org
www.KamalaHarris.org

Loretta L. Sanchez | DEMOCRATIC

California needs a proven leader who can deliver results and tackle the full range of economic, educational and security challenges we face today. *Our next U.S. Senator must have extensive legislative and national security experience and share the life experiences of working people. I do, and that's why I am the best candidate for the job.* My parents were hardworking immigrants who struggled to provide for their seven children. I worked my way through college with the help of government and union grants, and the Anaheim Rotary Club paid for my MBA. My parents worked hard, valued education and are the only parents in American history to send two daughters to Congress. That's why I have fought passionately in Congress for 20 years for education, affordable college, healthcare reform, immigration reform, gender equality, LGBT rights, raising the minimum wage, and environmental protection. I've also demonstrated independent judgment and courage when it mattered most: *I voted against the Iraq War, the so-called Patriot Act, and the Wall Street bailouts. As a senior member of the Armed Services and Homeland Security Committees,* I've worked to ensure our troops are trained and equipped to win and cared for when they come home. I'm the only candidate with the national security experience necessary to keep America safe from international and domestic terrorism. As your Senator, I will fight for all Californians, so together we can have a stronger and more prosperous future. *I humbly ask for your vote.*

P.O. Box 6037
Santa Ana, CA 92706

Tel: (714) 774-0236
Email: info@loretta.org
http://loretta.org

The order of the statements was determined by randomized drawing. Statements on this page were supplied by the candidates and have not been checked for accuracy. Each statement was voluntarily submitted and paid for by the candidate. Candidates who did not submit statements could otherwise be qualified to appear on the ballot.

PROPOSITION 51

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

51

PROPOSED LAW

SECTION 1. Findings and Declarations.

The people of the State of California find and declare all of the following:

(a) Pursuant to the California Constitution, public education is a state responsibility and, among other things, that responsibility requires that public schools be safe, secure, and peaceful.

(b) The State of California has a fundamental interest in the financing of public education and that interest extends to ensuring that K–14 facilities are constructed and maintained in safe, secure, and peaceful conditions.

(c) Since 1998, the State of California has successfully met its responsibility to provide safe, secure, and peaceful facilities through the Leroy F. Greene School Facilities Act of 1998, contained in Article 1 (commencing with Section 17070.10) of Chapter 12.5 of Part 10 of Division 1 of Title 1 of the Education Code.

(d) The State Allocation Board has the authority to audit expenditure reports and school district records in order to assure bond funds are expended in accordance with program requirements, which includes verifying that projects progress in a timely manner and that funds are not spent on salaries or operating expenses.

(e) The people of the State of California further find and declare the following:

(1) California was among the hardest hit of the states during the last recession and while employment gains are occurring, economists caution that the state economy has not yet fully recovered.

(2) Investments made through the Kindergarten Through Community College Public Education Facilities Bond Act of 2016 will provide for career technical education facilities to provide job training for many Californians and veterans who face challenges in completing their education and re-entering the workforce.

(3) Investments will be made in partnership with local school districts to upgrade aging facilities to meet current health and safety standards, including retrofitting for earthquake safety and the removal of lead paint, asbestos, and other hazardous materials.

(4) Studies show that 13,000 jobs are created for each $1 billion of state infrastructure investment. These jobs include building and construction trades jobs throughout the state.

(5) The Kindergarten Through Community College Public Education Facilities Bond Act of 2016 provides for disadvantaged school districts and local control.

(6) Academic goals cannot be achieved without 21st Century school facilities designed to provide improved school technology and teaching facilities.

(f) Therefore, the people enact the Kindergarten Through Community College Public Education Facilities Bond Act of 2016 to provide a comprehensive and fiscally responsible approach for addressing the school facility needs for all Californians.

SEC. 2. Section 17070.41 is added to the Education Code, to read:

17070.41. Creation of 2016 State School Facilities Fund.

(a) A fund is hereby established in the State Treasury, to be known as the 2016 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.

(b) The board may apportion funds to school districts for the purposes of this chapter, as it read on January 1, 2015, from funds transferred to the 2016 State School Facilities Fund from any source.

(c) The board may make apportionments in amounts not exceeding those funds on deposit in the 2016 State School Facilities Fund, and any amount of bonds authorized by the committee, but not yet sold by the Treasurer.

(d) The board may make disbursements pursuant to any apportionment made from any funds in the 2016 State School Facilities Fund, irrespective of whether there exists at the time of the disbursement an amount in the 2016 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. 3. Part 70 (commencing with Section 101110) is added to Division 14 of Title 3 of the Education Code, to read:

PART 70. KINDERGARTEN THROUGH COMMUNITY COLLEGE PUBLIC EDUCATION FACILITIES BOND ACT OF 2016

CHAPTER 1. GENERAL

101110. This part shall be known, and may be cited, as the Kindergarten Through Community College Public Education Facilities Bond Act of 2016.

101112. Bonds in the total amount of nine billion dollars ($9,000,000,000), not including the amount of any refunding bonds issued in accordance with Sections 101140 and 101149, or so much thereof as is necessary, may be issued and sold for the purposes set forth in Sections 101130 and 101144. 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.

CHAPTER 2. KINDERGARTEN THROUGH 12TH GRADE

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

101120. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the 2016 State School Facilities Fund established in the State Treasury under Section 17070.41 and shall be allocated by the State Allocation Board pursuant to this chapter.

101121. All moneys deposited in the 2016 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 of Division 1 of Title 1), as it read on January 1, 2015, as set forth in Section 101122, to provide funds to repay any money advanced or loaned to the 2016 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.

101122. (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 three billion dollars ($3,000,000,000) for new construction of school facilities of applicant school districts pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1.

(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 of Division 1 of Title 1.

(3) The amount of three billion dollars ($3,000,000,000) for the modernization of school facilities pursuant to Chapter 12.5 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1.

(4) The amount of five hundred million dollars ($500,000,000) for facilities for career technical education programs pursuant to Article 13 (commencing with Section 17078.70) of Chapter 12.5 of Part 10 of Division 1 of Title 1.

(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 of Division 1 of Title 1:

(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 of Division 1 of Title 1.

(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 (commencing with Section 17070.10) of Part 10 of Division 1 of Title 1 for funding classrooms for severely handicapped pupils, or for funding classrooms for county community school pupils.

(d) Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code, as those provisions read on January 1, 2015, shall be in effect until the full amount of bonds authorized for new school facility construction pursuant to paragraph (1) of subdivision (a) have been expended, or December 31, 2020, whichever is sooner. Thereafter, Chapter 4.9 (commencing with Section 65995) of Division 1 of Title 7 of the Government Code may be amended pursuant to law.

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

101130. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 101110), bonds in the amount of seven billion dollars ($7,000,000,000) not including the amount of any refunding bonds issued in accordance with Section 101140, 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.

(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.

101131. 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.

101132. (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 acts amendatory thereof and supplementary thereto, are hereby incorporated into this chapter as though set forth in full within this chapter, except subdivisions (a) and (b) of Section 16727 of the Government Code shall not apply to the bonds authorized by 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 2016 State School Facilities Fund.

101133. (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 authorized pursuant to this chapter in order to fund the related 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 101121 and 101122.

101134. 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.

101135. 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 101138, appropriated without regard to fiscal years.

101136. 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 (exclusive of refunding bonds) that the committee, by resolution, has authorized to be sold for the purpose of carrying out this chapter. The State Allocation 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 State Allocation Board in accordance with this chapter.

101137. 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.

101138. 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 (exclusive of refunding 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 2016 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.

101139. All money deposited in the 2016 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, except that amounts derived from premium may be reserved and used to pay the cost of the bond issuance prior to any transfer to the General Fund.

101140. 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 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. Any bond refunded with the proceeds of refunding bonds as authorized by this section may be legally defeased to the extent permitted by law in the manner and to the extent set forth in the resolution, as amended from time to time, authorizing such refunded bond.

101141. The people hereby find and declare 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

101142. (a) The 2016 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.

Article 2. California Community College Program Provisions

101143. (a) From the proceeds of bonds issued and sold pursuant to Article 3 (commencing with Section 101144), the sum of two billion dollars ($2,000,000,000) shall be deposited in the 2016 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 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

101144. (a) Of the total amount of bonds authorized to be issued and sold pursuant to Chapter 1 (commencing with Section 101110), bonds in the total amount of two billion dollars ($2,000,000,000), not including the amount of any refunding bonds issued in accordance with Section 101149, 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.

(b) 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.

101144.5. (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 acts amendatory thereof and supplementary thereto, are hereby incorporated into this chapter as though set forth in full within this chapter, except subdivisions (a) and (b) of Section 16727 of the Government Code shall not apply to the bonds authorized by this chapter.

(b) For the purposes of the State General Obligation Bond Law, each state agency administering an appropriation of the 2016 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.

101145. 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 related 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.

101145.5. 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.

101146. 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 101147.5, appropriated without regard to fiscal years.

101146.5. The board, as defined in subdivision (b) of Section 101144.5, 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 (exclusive of refunding bonds) that the Higher Education Facilities Finance 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 101144.5, 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.

101147. 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.

101147.5. (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 (exclusive of refunding 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 2016 California Community College 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 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.

101148. All money deposited in the 2016 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, except that amounts derived from premium may be reserved and used to pay the cost of the bond issuance prior to any transfer to the General Fund.

101149. 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 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. Any bond refunded with the proceeds of refunding bonds as authorized by this section may be legally defeased to the extent permitted by law in the manner and to the extent set forth in the resolution, as amended from time to time, authorizing such refunded bond.

101149.5. The people hereby find and declare 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.

SEC. 4. General Provisions.

(a) 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.

(b) This act is intended to be comprehensive. It is the intent of the people that in the event this act or measures relating to the same 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 act. In the event that this act receives a greater number of affirmative votes, the provisions of this act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

PROPOSITION 52

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 a section to the California Constitution and amends sections of 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

SECTION 1. Statement of Findings.

A. The federal government established the Medicaid program to help pay for health care services provided to low-income patients, including the elderly, persons with disabilities, and children. In California this program is called Medi-Cal. In order for any state to receive federal Medicaid funds, the state has to contribute a matching amount of its own money.

B. In 2009, a new program was created whereby California hospitals began paying a fee to help the state obtain available federal Medicaid funds, at no cost to California taxpayers. This program has helped pay for health care for low-income children and resulted in California hospitals receiving approximately $2 billion per year in additional federal money to help hospitals to meet the needs of Medi-Cal patients.

SEC. 2. Statement of Purpose.

To ensure that the fee paid by hospitals to the state for the purpose of maximizing the available federal matching funds is used for the intended purpose, the people hereby amend the Constitution to require voter approval of changes to the hospital fee program to ensure that the state uses these funds for the intended purpose of supporting hospital care to Medi-Cal patients and to help pay for health care for low-income children.

SEC. 3. Amendment to the Constitution.

SEC. 3.1. Section 3.5 is added to Article XVI of the California Constitution, to read:

SEC. 3.5. (a) No statute amending or adding to the provisions of the Medi-Cal Hospital Reimbursement Improvement Act of 2013 shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes pursuant to subdivision (c) of Section 10 of Article II, except that the Legislature may, by statute passed in each house by roll call vote entered into the journal, two-thirds of the membership concurring, amend or add provisions that further the purposes of the act.

(b) For purposes of this section:

(1) "Act" means the Medi-Cal Hospital Reimbursement Improvement Act of 2013 (enacted by Senate Bill 239 of the 2013–14 Regular Session of the Legislature, and any nonsubstantive amendments to the act enacted by a later bill in the same session of the Legislature).

(2) "Nonsubstantive amendments" shall only mean minor, technical, grammatical, or clarifying amendments.

(3) "Provisions that further the purposes of the act" shall only mean:

(A) Amendments or additions necessary to obtain or maintain federal approval of the implementation of the act, including the fee imposed and related quality assurance payments to hospitals made pursuant to the act;

(B) Amendments or additions to the methodology used for the development of the fee and quality assurance payments to hospitals made pursuant to the act.

(c) Nothing in this section shall prohibit the Legislature from repealing the act in its entirety by statute passed in each house by roll call vote entered into the journal, two-thirds of the membership concurring, except that the Legislature shall not be permitted to repeal the act and replace it with a similar statute imposing a tax, fee, or assessment unless that similar statute is either:

(1) A provision that furthers the purposes of the act as defined herein;

(2) Is approved by the electors in the same manner as statutes amending initiative statutes pursuant to subdivision (c) of Section 10 of Article II.

(d) The proceeds of the fee imposed by the act and all interest earned on such proceeds shall not be considered revenues, General Fund revenues, General Fund proceeds of taxes, or allocated local proceeds of taxes, for purposes of Sections 8 and 8.5 of this article or for the purposes of Article XIII B. The appropriation of the proceeds in the trust fund referred to in the act for hospital services to Medi-Cal beneficiaries or other beneficiaries in any other similar federal program shall not be subject to the prohibitions or restrictions in Sections 3 or 5 of this article.

SEC. 4. Amendments to Medi-Cal Hospital Reimbursement Improvement Act of 2013.

SEC. 4.1. Section 14169.72 of the Welfare and Institutions Code is amended to read:

14169.72. This article shall become inoperative if any of the following occurs:

(a) The effective date of a final judicial determination made by any court of appellate jurisdiction or a final determination by the United States Department of Health and Human Services or the federal Centers for Medicare and Medicaid Services that the quality assurance fee established pursuant to this article, or Section 14169.54 or 14169.55, cannot be implemented. This subdivision shall not apply to any final judicial determination made by any court of appellate jurisdiction in a case brought by hospitals located outside the state.

(b) The federal Centers for Medicare and Medicaid Services denies approval for, or does not approve on or before the last day of a program period, the implementation of Sections 14169.52, 14169.53, 14169.54, and 14169.55, and the department fails to modify Section 14169.52, 14169.53, 14169.54, or 14169.55 pursuant to subdivision (d) of Section 14169.53 in order to meet the requirements of federal law or to obtain federal approval.

(c) *The Legislature fails to appropriate moneys in the fund in the annual Budget Act, or fails to appropriate such moneys in a separate bill enacted within thirty (30) days following enactment of the annual Budget Act.* ~~A final judicial determination by the California Supreme Court or any California Court of Appeal that the revenues collected pursuant to this article that are deposited in the fund are either of the following:~~

~~(1) "General Fund proceeds of taxes appropriated pursuant to Article XIII B of the California Constitution," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.~~

~~(2) "Allocated local proceeds of taxes," as used in subdivision (b) of Section 8 of Article XVI of the California Constitution.~~

(d) The department has sought but has not received federal financial participation for the supplemental payments and other costs required by this article for which federal financial participation has been sought.

(e) A lawsuit related to this article is filed against the state and a preliminary injunction or other order has been issued that results in a financial disadvantage to the state. For purposes of this subdivision, "financial disadvantage to the state" means either of the following:

(1) A loss of federal financial participation.

(2) A *net* ~~cost to the~~ General Fund *cost incurred due to the act* ~~that is equal to or greater than one-quarter of 1 percent of the General Fund expenditures authorized in the most recent annual Budget Act~~.

(f) The proceeds of the fee and any interest and dividends earned on deposits are not deposited into the fund or are not used as provided in Section 14169.53.

(g) The proceeds of the fee, the matching amount provided by the federal government, and interest and dividends earned on deposits in the fund are not used as provided in Section 14169.68.

SEC. 4.2. Section 14169.75 of the Welfare and Institutions Code is amended to read:

14169.75. *Notwithstanding subdivision (k) of Section 14167.35, subdivisions (a), (i), and (j) of Section 14167.35, creating the fund, are not repealed and shall remain operative as long as this article remains operative.* ~~Notwithstanding Section 14169.72, this article shall become inoperative on January 1, 2018. A hospital shall not be required to pay the fee after that date unless the fee was owed during the period in which the article was operative, and payments authorized under Section 14169.53 shall not be made unless the payments were owed during the period in which the article was operative.~~

SEC. 5. General Provisions.

(a) If any provision of this measure, or any 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 measure are severable.

(b) This measure is intended to be comprehensive. It is the intent of the people that in the event this measure or measures relating to the same 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 receives 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.

52

PROPOSITION 53

53

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 a section to the California Constitution; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the No Blank Checks Initiative.

SEC. 2. Findings and Declarations.

The people of the State of California find and declare as follows:

(a) The politicians in Sacramento have mortgaged our future with long-term bond debt obligations that will take taxpayers, our children, and future generations decades to pay off.

(b) Under current rules, the sale of state bonds only needs to be approved by voters if they will be repaid out of the state's general revenues. But state politicians can sell

billions of dollars of additional bond debt without ever getting the voters' approval if the bonds will be repaid with specific revenue streams or charges imposed directly on Californians like taxes, fees, rates, tolls, or rents. The politicians should not be allowed to issue blank checks Californians have to pay for. Voters must provide prior approval for all major state bond sale decisions, because voters are the ones who ultimately pay the bill.

(c) According to a 2014 report from California's independent, nonpartisan Legislative Analyst's Office, the State of California is carrying $340 billion in public debt. (Legislative Analyst's Office, "Addressing California's Key Liabilities," Mar. 7, 2014.) Interest and principal payments on our long-term debt obligations will cripple the state if we keep spending the way we do now—reducing cash available for public safety, schools, and other vital state programs.

(d) Moreover, voters are rarely told the true costs of bond-funded projects. We were originally told that the bullet train would cost $9 billion. But now the estimated cost has ballooned to nearly $70 billion. (Los Angeles Times, "The Hazy Future of California's Bullet Train," Jan. 14, 2014.)

(e) This measure puts the brakes on our state's public debt crisis by giving the voters a say in all major state bond debt proposals that must be repaid through specific revenue streams or charges imposed directly on Californians like taxes, fees, rates, tolls, or rents.

SEC. 3. Statement of Purpose.

The purpose of this measure is to bring the state's public debt crisis under control by giving the voters a say in all major state bond-funded projects that will be paid off through specific revenue streams or higher taxes, fees, rates, tolls, or rents collected from Californians, their children, and future generations.

SEC. 4. Section 1.6 is added to Article XVI of the California Constitution, to read:

SEC. 1.6. (a) Notwithstanding any other provision of law, all revenue bonds issued or sold by the State in an amount either singly or in the aggregate over two billion dollars ($2,000,000,000) for any single project financed, owned, operated, or managed by the State must first be approved by the voters at a statewide election. "State" means the State of California, any agency or department thereof, and any joint powers agency or similar body created by the State or in which the State is a member. "State" as used herein does not include a city, county, city and county, school district, community college district, or special district. For purposes of this section, "special district" refers only to public entities formed for the performance of local governmental functions within limited boundaries.

(b) A single project for which state revenue bonds are issued or sold in an amount over two billion dollars ($2,000,000,000) may not be divided into, or deemed to be, multiple separate projects in order to avoid the voter approval requirements contained in this section. For purposes of this section, multiple allegedly separate projects shall be deemed to constitute a single project including, but not limited to, in the following circumstances:

(1) Where the allegedly separate projects will be physically or geographically proximate to each other; or

(2) Where the allegedly separate projects will be physically joined or connected to each other; or

(3) Where one allegedly separate project cannot accomplish its stated purpose without the completion of another allegedly separate project.

(c) The two billion dollar ($2,000,000,000) threshold contained in this section shall be adjusted annually to reflect any increase or decrease in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U) published by the United States Bureau of Labor Statistics. The Treasurer's Office shall calculate and publish the adjustments required by this subdivision.

SEC. 5. Liberal Construction.

This act shall be liberally construed in order to effectuate its purposes.

SEC. 6. Conflicting Measures.

(a) In the event that this measure and another measure or measures relating to voter approval requirements for state bonds shall appear on the same statewide election ballot, 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 or measures shall be null and void.

(b) If this measure is approved by the voters but superseded in whole or in part by any other conflicting initiative approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 7. Severability.

The provisions of this act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this act. The people of the State of California hereby declare that they would have adopted this act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this act or application thereof would be subsequently declared invalid.

SEC. 8. Legal Defense.

If this act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of federal law, and both the Governor and Attorney General refuse to defend this act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 (commencing with Section 12500) of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of

retaining independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

PROPOSITION 54

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 sections of the California Constitution and amends and adds sections to the Government 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

SECTION 1. Title.

This act shall be known and may be cited as the California Legislature Transparency Act.

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare that:

(a) It is essential to the maintenance of a democratic society that public business be performed in an open and public manner, and highly desirable that citizens be given the opportunity to fully review every bill and express their views regarding the bill's merits to their elected representatives, before it is passed.

(b) However, last-minute amendments to bills are frequently used to push through political favors without comment or with little advance notice.

(c) Moreover, complex bills are often passed before Members of the Legislature have any realistic opportunity to review or debate them, resulting in ill-considered legislation.

(d) Further, although our State Constitution currently provides that the proceedings of each house and the committees thereof shall be open and public, few citizens have the ability to attend legislative proceedings in person, and many legislative proceedings go completely unobserved by the public and press, often leaving no record of what was said.

(e) Yet, with the availability of modern recording technology and the Internet, there is no reason why public legislative proceedings should remain relatively inaccessible to the citizens that they serve.

(f) Accordingly, to foster disclosure, deliberation, debate, and decorum in our legislative proceedings, to keep our citizens fully informed, and to ensure that legislative proceedings are conducted fairly and openly, our State Constitution should guarantee the right of all persons, including members of the press, to freely record legislative proceedings and to broadcast, post, or otherwise transmit those recordings.

(g) To supplement this right to record legislative proceedings, the Legislature itself should also be required to make and post audiovisual recordings of all public proceedings to the Internet and to maintain an archive of these recordings, which will be a valuable resource for the public, the press, and the academic community for generations to come.

(h) California should also follow the lead of other states that require a 72-hour advance notice period between the time a bill is printed and made available to the public and the time it is put to a vote, allowing an exception only in the case of a true emergency, such as a natural disaster.

(i) The opportunity for an orderly and detailed review of bills by the public, the press, and legislators will result in better bills while thwarting political favoritism and power grabs.

(j) These measures will have nominal cost to taxpayers, while promoting greater transparency in our legislative proceedings to benefit the people.

SEC. 3. Statement of Purpose.

In enacting this measure, the people of the State of California intend the following:

(a) To enable we, the people, to observe through the Internet what is happening and has happened in any and all of the Legislature's public proceedings so as to obtain the information necessary to participate in the political process and to hold our elected representatives accountable for their actions.

(b) To enable we, the people, to record and to post or otherwise transmit our own recordings of those legislative proceedings in order to encourage fairness in the proceedings, deliberation in our representatives' decision-making, and accountability.

(c) To give us, the people, and our representatives the necessary time to carefully evaluate the strengths and weaknesses of the final version of a bill before a vote by imposing a 72-hour public notice period between the time that the final version is made available to the Legislature and the public, and the time that a vote is taken, except in cases of a true emergency declared by the Governor.

SEC. 4. Amendments to Article IV of the California Constitution.

SEC. 4.1. Section 7 of Article IV of the California Constitution is amended to read:

SEC. 7. (a) Each house shall choose its officers and adopt rules for its proceedings. A majority of the membership constitutes a quorum, but a smaller number may recess from day to day and compel the attendance of absent members.

(b) Each house shall keep and publish a journal of its proceedings. The rollcall vote of the members on a question shall be taken and entered in the journal at the request of 3 members present.

(c) (1) *Except as provided in paragraph (3),* ~~The~~ *the* proceedings of each house and the committees thereof shall be open and public. *The right to attend open and public proceedings includes the right of any person to record by audio or video means any and all parts of the proceedings and to broadcast or otherwise transmit them; provided that the Legislature may adopt reasonable rules pursuant to paragraph (5) regulating the placement and use of the equipment for recording or broadcasting the proceedings for the sole purpose of minimizing disruption of the proceedings. Any aggrieved party shall have standing to challenge said rules in an action for declaratory and injunctive relief, and the Legislature shall have the burden of demonstrating that the rule is reasonable.*

(2) Commencing on January 1 of the second calendar year following the adoption of this paragraph, the Legislature shall also cause audiovisual recordings to be made of all proceedings subject to paragraph (1) in their entirety, shall make such recordings public through the Internet within

24 hours after the proceedings have been recessed or adjourned for the day, and shall maintain an archive of said recordings, which shall be accessible to the public through the Internet and downloadable for a period of no less than 20 years as specified by statute.

(3) Notwithstanding paragraphs (1) and (2)~~However~~, closed sessions may be held solely for any of the following purposes:

(A) To consider the appointment, employment, evaluation of performance, or dismissal of a public officer or employee, to consider or hear complaints or charges brought against a Member of the Legislature or other public officer or employee, or to establish the classification or compensation of an employee of the Legislature.

(B) To consider matters affecting the safety and security of Members of the Legislature or its employees or the safety and security of any buildings and grounds used by the Legislature.

(C) To confer with, or receive advice from, its legal counsel regarding pending or reasonably anticipated, or whether to initiate, litigation when discussion in open session would not protect the interests of the house or committee regarding the litigation.

~~(2)~~*(4)* A caucus of the Members of the Senate, the Members of the Assembly, or the Members of both houses, which is composed of the members of the same political party, may meet in closed session.

~~(3)~~*(5)* The Legislature shall implement this subdivision by concurrent resolution adopted by rollcall vote entered in the journal, two-thirds of the membership of each house concurring, or by statute, and ~~shall prescribe that, when~~ *in the case of* a closed session ~~is~~ held pursuant to paragraph ~~(1),~~ *(3), shall prescribe that* reasonable notice of the closed session and the purpose of the closed session shall be provided to the public. If there is a conflict between a concurrent resolution and statute, the last adopted or enacted shall prevail.

(d) Neither house without the consent of the other may recess for more than 10 days or to any other place.

SEC. 4.2. Section 8 of Article IV of the California Constitution is amended to read:

SEC. 8. (a) At regular sessions no bill other than the budget bill may be heard or acted on by committee or either house until the 31st day after the bill is introduced unless the house dispenses with this requirement by rollcall vote entered in the journal, three fourths of the membership concurring.

(b) *(1)* The Legislature may make no law except by statute and may enact no statute except by bill. No bill may be passed unless it is read by title on 3 days in each house except that the house may dispense with this requirement by rollcall vote entered in the journal, two thirds of the membership concurring.

(2) No bill may be passed *or ultimately become a statute unless* ~~until~~ the bill with *any* amendments has been printed, ~~and~~ distributed to the members*, and published on the Internet, in its final form, for at least 72 hours before the vote, except that this notice period may be waived if the Governor has submitted to the Legislature a written statement that dispensing with this notice period for that bill is necessary to address a state of emergency, as defined in paragraph (2) of subdivision (c) of Section 3 of Article XIII B, that has been declared by the Governor, and the house considering the bill thereafter dispenses with the notice period for that bill by a separate rollcall vote entered in the journal, two thirds of the membership concurring, prior to the vote on the bill.*

(3) No bill may be passed unless, by rollcall vote entered in the journal, a majority of the membership of each house concurs.

(c) (1) Except as provided in paragraphs (2) and (3) of this subdivision, a statute enacted at a regular session shall go into effect on January 1 next following a 90-day period from the date of enactment of the statute and a statute enacted at a special session shall go into effect on the 91st day after adjournment of the special session at which the bill was passed.

(2) A statute, other than a statute establishing or changing boundaries of any legislative, congressional, or other election district, enacted by a bill passed by the Legislature on or before the date the Legislature adjourns for a joint recess to reconvene in the second calendar year of the biennium of the legislative session, and in the possession of the Governor after that date, shall go into effect on January 1 next following the enactment date of the statute unless, before January 1, a copy of a referendum petition affecting the statute is submitted to the Attorney General pursuant to subdivision (d) of Section 10 of Article II, in which event the statute shall go into effect on the 91st day after the enactment date unless the petition has been presented to the Secretary of State pursuant to subdivision (b) of Section 9 of Article II.

(3) Statutes calling elections, statutes providing for tax levies or appropriations for the usual current expenses of the State, and urgency statutes shall go into effect immediately upon their enactment.

(d) Urgency statutes are those necessary for immediate preservation of the public peace, health, or safety. A statement of facts constituting the necessity shall be set forth in one section of the bill. In each house the section and the bill shall be passed separately, each by rollcall vote entered in the journal, two thirds of the membership concurring. An urgency statute may not create or abolish any office or change the salary, term, or duties of any office, or grant any franchise or special privilege, or create any vested right or interest.

SEC. 5. Amendments to the Government Code.

SEC. 5.1. Section 9026.5 of the Government Code is amended to read as follows:

9026.5. *Televised or other audiovisual recordings of public proceedings.*

(a) *Televised or other audiovisual recordings of the public proceedings of each house of the Legislature and the committees thereof may be used for any legitimate purpose and without the imposition of any fee due to the State or any public agency or public corporation thereof.* ~~No television signal generated by the Assembly shall be used for any political or commercial purpose, including, but not limited to, any campaign for elective public office or any campaign supporting or opposing a ballot proposition submitted to the electors.~~

~~As used in this section, "commercial purpose" does not include either of the following:~~

~~(1) The use of any television signal generated by the Assembly by an accredited news organization or any nonprofit organization for educational or public affairs programming.~~

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~~(2) As authorized by the Assembly, the transmission by a third party to paid subscribers of an unedited video feed of the television signal generated by the Assembly.~~

(b) *The Legislature's costs of complying with paragraph (2) of subdivision (c) of Section 7 and of paragraph (2) of subdivision (b) of Section 8 of Article IV of the California Constitution shall be included as part of the total aggregate expenditures allowed under Section 7.5 of Article IV of the California Constitution.* ~~Any person or organization who violates this section is guilty of a misdemeanor.~~

SEC. 5.2. Section 10248 of the Government Code is amended to read as follows:

10248. *Public computer network; required legislative information.*

(a) The Legislative Counsel shall, with the advice of the Assembly Committee on Rules and the Senate Committee on Rules, make all of the following information available to the public in electronic form:

(1) The legislative calendar, the schedule of legislative committee hearings, a list of matters pending on the floors of both houses of the Legislature, and a list of the committees of the Legislature and their members.

(2) The text of each bill introduced in each current legislative session, including each amended, enrolled, and chaptered form of each bill.

(3) The bill history of each bill introduced and amended in each current legislative session.

(4) The bill status of each bill introduced and amended in each current legislative session.

(5) All bill analyses prepared by legislative committees in connection with each bill in each current legislative session.

(6) *All audiovisual recordings of legislative proceedings that have been caused to be made by the Legislature in accordance with paragraph (2) of subdivision (c) of Section 7 of Article IV of the California Constitution. Each recording shall remain accessible to the public through the Internet and downloadable for a minimum period of 20 years following the date on which the recording was made and shall then be archived in a secure format.*

~~(6)~~*(7)* All vote information concerning each bill in each current legislative session.

~~(7)~~*(8)* Any veto message concerning a bill in each current legislative session.

~~(8)~~*(9)* The California Codes.

~~(9)~~*(10)* The California Constitution.

~~(10)~~*(11)* All statutes enacted on or after January 1, 1993.

(b) The information identified in subdivision (a) shall be made available to the public by means of access by way of the largest nonproprietary, nonprofit cooperative public computer network. The information shall be made available in one or more formats and by one or more means in order to provide the greatest feasible access to the general public in this state. Any person who accesses the information may access all or any part of the information. The information may also be made available by any other means of access that would facilitate public access to the information. The information that is maintained in the legislative information system that is operated and maintained by the Legislative Counsel shall be made available in the shortest feasible time after the information is available in the information system. The information that is not maintained in the information system shall be made available in the shortest feasible time after it is available to the Legislative Counsel.

(c) Any documentation that describes the electronic digital formats of the information identified in subdivision (a) and is available to the public shall be made available by means of access by way of the computer network specified in subdivision (b).

(d) Personal information concerning a person who accesses the information may be maintained only for the purpose of providing service to the person.

(e) No fee or other charge may be imposed by the Legislative Counsel as a condition of accessing the information that is accessible by way of the computer network specified in subdivision (b).

(f) The electronic public access provided by way of the computer network specified in subdivision (b) shall be in addition to other electronic or print distribution of the information.

(g) No action taken pursuant to this section shall be deemed to alter or relinquish any copyright or other proprietary interest or entitlement of the State of California relating to any of the information made available pursuant to this section.

SEC. 6. Defense of Initiative Measure.

SEC. 6.1. Section 12511.7 is added to the Government Code, to read:

12511.7. Defense of the California Legislature Transparency Act.

If an action is brought challenging, in whole or in part, the validity of the California Legislature Transparency Act, the following shall apply:

(a) The Legislature shall continue to comply with the act unless it is declared unconstitutional pursuant to a final judgment of an appellate court.

(b) Except as set forth in subdivision (c), the Attorney General shall defend against any action challenging, in whole or in part, the validity of the act, and shall have an unconditional right to intervene in any action addressing the validity of the act.

(c) If the Attorney General declines to defend the validity of the act in any action, the Attorney General shall nonetheless file an appeal from, or seek review of, any judgment of any court that determines that the act is invalid, in whole or in part, if necessary or appropriate to preserve the state's standing to defend the law in conformity with the Attorney General's constitutional duty to see that the laws of the state are adequately enforced.

(d) The official proponents of the act have an unconditional right to participate, either as interveners or real parties in interest, in any action affecting the validity or interpretation of the act. Where the Governor and Attorney General have declined to defend the validity of the act, the official proponents are also authorized to act on the state's behalf in asserting the state's interest in the validity of the act in any such action and to appeal from any judgment invalidating the act.

(e) Nothing in this section precludes other public officials from asserting the state's interest in the validity of the act.

SEC. 7. Repeal of any Conflicting Statute Proposed at the Primary Election.

If the Legislature places a measure on the ballot for the June 2016 primary election that is approved by a majority

of votes thereon, any provision of that measure that is inconsistent with, or interferes in any way with, the purpose or provisions adopted by this initiative measure shall be rendered void and without legal effect.

SEC. 8. Severability.

The provisions of this act are severable. If any provision of this act or its application is held to be invalid, that invalidity shall not affect the other provisions or applications that can be given effect in the absence of the invalid provision or application. Without limiting in any way the generality of the foregoing, the voters declare (1) that the amendments to Section 7 of Article IV of the California Constitution are severable from the amendments to Section 8 of Article IV of the California Constitution, (2) that the Legislature's obligations to cause to be made, to make public, and to maintain audiovisual recordings of legislative proceedings are severable from the right of any person to record the proceedings and broadcast or otherwise transmit such recordings pursuant to the amendments to Section 7 of Article IV of the California Constitution, (3) that the right to record proceedings is severable from the right to broadcast or otherwise transmit the recordings, and (4) that the statutory amendments of this initiative measure are severable from the constitutional amendments.

SEC. 9. Amendments.

The statutory provisions of this act shall not be amended except upon approval of the voters, except that the Legislature may amend paragraph (6) of subdivision (a) of Section 10248 of the Government Code to extend the time that recordings shall remain accessible to the public through the Internet and downloadable by passing a statute by a rollcall vote entered in the journal, a majority of the membership of each house concurring.

SEC. 10. Conflicting Ballot Propositions.

(a) In the event that this initiative measure and any other measure or measures that relate to the transparency of the legislative process with respect to any of the matters addressed herein are approved by a majority of voters at the same election, and this initiative measure receives a greater number of affirmative votes than any other such measure or measures, this initiative measure shall control in its entirety and the other measure or measures shall be rendered void and without legal effect.

(b) If this initiative measure and a statutory measure placed on the ballot by the Legislature are approved by a majority of voters at the same election, the constitutional amendments in this initiative measure shall control over any statutory measure placed on the ballot by the Legislature to the extent that the statutory measure conflicts with, is inconsistent with, or interferes with the purpose, intent, or provisions of this initiative measure.

(c) If this initiative measure is approved by voters but is superseded in whole or in part by any other conflicting measure approved by the voters and receiving a greater number of affirmative votes at the same election, and the conflicting measure or superseding provisions thereof are subsequently held to be invalid, the formerly superseded provisions of this initiative measure, to the extent superseded by the subsequently invalidated provisions of the conflicting measure, shall be self-executing and given the full force of law.

PROPOSITION 55

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 a section of the California Constitution; 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

The California Children's Education and Health Care Protection Act of 2016

SECTION 1. Title.

This measure shall be known and may be cited as "The California Children's Education and Health Care Protection Act of 2016."

SEC. 2. Findings.

(a) During the recent recession, California cut more than $56 billion from education, health care and other critical state and local services. These cuts resulted in thousands of teacher layoffs, increased school class sizes, higher college tuition fees, and reduced essential services. Temporary tax increases passed by California voters in 2012 helped to partially offset some of the lost funding, but those taxes will begin to expire at the end of 2016, leading to more deficits and more school cuts.

(b) Unless we act now to temporarily extend the current income tax rates on the wealthiest Californians, our public schools will soon face another devastating round of cuts due to lost revenue of billions of dollars a year. Public school funding was cut to the bone during the recession. Our schools and colleges are just starting to recover, and we should be trying to protect education funding instead of gutting it all over again. We can let the temporary sales tax increase expire to help working families, but this is not the time to be giving the wealthiest people in California a tax cut that they don't need and that our schools can't afford.

(c) California's future depends on the success of its nine million children. Every California child deserves a fair chance to become a successful adult. But for children to succeed as adults, they must have access to high quality education and health care.

(d) For children, education and health care are essential and dependent on one another. Access to a quality education is fundamental to the success of California's children. Even with adequate schools, children cannot obtain an education if illness prevents them from attending. And children growing up in communities without adequate health care are more likely to contract illnesses or have chronic medical conditions that prevent them from regularly attending school.

(e) Underfunding of health care programs also harms California financially. Every new state dollar spent on health care for children and their families is automatically matched by federal funds. This means every year California loses out on billions of dollars in federal matching money that could be used to ensure children and their families have access to health care.

(f) Research also shows that early access to quality education and health care improves children's chances of succeeding in school and in life. California should do more to ensure that the state's children receive the education

and health care they need to thrive and achieve their highest potential.

(g) California public schools, for example, are the most crowded in the nation. Class sizes are an astonishing 80 percent larger than the national average. The number of Californians training to be future teachers has dropped by 50 percent in the last five years as class sizes have soared.

(h) As well, the budgets of California's community colleges were slashed during the Great Recession, diminishing the ability of California children—especially those from low-income families—to receive career training and an affordable and necessary college education.

(i) California chronically underfunds health care. California ranks 48th out of the 50 states in health care spending, making it difficult for children and their families, seniors, and the disabled to access health care. Underfunding health care for children leads to increased rates of serious illness, and higher long-term medical expenses. Improved reimbursement for health services helps ensure that children have access to doctors and hospitals. And once a hospital or doctor's office closes due to chronic underfunding, it closes for everyone in that community.

(j) The California Children's Education and Health Care Protection Act of 2016 temporarily extends the higher income tax rates on couples earning more than half a million dollars a year—those who can most afford it—to help all California children stay healthy, stay in good public schools, and have the opportunity for higher education.

(k) This measure does not increase taxes on anyone earning under $250,000. It does not extend the temporary sales tax increases that voters previously approved in 2012.

(*l*) The income tax revenue is guaranteed in the California Constitution to go directly to local school districts and community colleges, and to help the state pay for health care expenses for low-income children and their families. State funding is freed up to help balance the budget and prevent even more devastating cuts to services for seniors, low-income children, working families, and small business owners. Everyone benefits.

(m) To ensure all these funds go only where the voters intend, they are put in a special fund that the Legislature cannot divert to other purposes. None of these revenues can be spent on state bureaucracy or administrative costs.

(n) These funds will be subject to an independent audit every year to ensure they are spent only for the purposes set forth in this measure. Elected officials will be subject to prosecution and criminal penalties if they misuse the funds.

(o) California has seen massive budget swings over the past 15 years, with deep deficits and devastating cuts after the Dot-Com bust and the Great Recession. Maintaining the state's rainy day fund will stabilize the budget, avoid the boom and bust cycles of the past, and protect our children, seniors, and disabled Californians from cuts in school and health care funding during future economic downturns.

SEC. 3. Purpose and Intent.

(a) The chief purpose and intent of the voters in enacting this measure is to avoid harmful cuts that would reduce the quality of education and instruction in California's local public schools, and to provide adequate funding for essential health care services for children and family members who are legal residents of California.

(b) This measure is intended to protect our children by temporarily extending current income tax rates on wealthy Californians, instead of awarding a huge tax break to couples earning more than half a million dollars a year, or individuals earning more than a quarter million. Instead of sending money back into the pockets of the wealthy, this measure sends the money to a special account that must be spent exclusively to ensure that every California child has access to a quality public education and the quality health care necessary for them to stay in school and learn.

(c) This measure is intended to keep California on its current track of balanced budgets and reliable funding for schools, community colleges, and health care, preventing a return to the days of chronic budget deficits and funding cuts.

(d) This measure guarantees in the Constitution that the revenues it raises for schools will be sent directly to school districts and community colleges for classroom expenses, not administrative costs. This school funding cannot be suspended or withheld no matter what happens with the state budget.

(e) This measure guarantees in the Constitution that the revenues it raises for health care will be spent to supplement existing state funding for health care services that qualify for matching federal funds.

(f) All revenues from this measure are subject to local audit every year, and audit by the independent Controller to ensure that they will be used only for the purposes set forth in this measure.

SEC. 4. Section 36 of Article XIII of the California Constitution is amended to read:

SEC. 36. (a) For purposes of this section:

(1) "Public Safety Services" includes the following:

(A) Employing and training public safety officials, including law enforcement personnel, attorneys assigned to criminal proceedings, and court security staff.

(B) Managing local jails and providing housing, treatment, and services for, and supervision of, juvenile and adult offenders.

(C) Preventing child abuse, neglect, or exploitation; providing services to children and youth who are abused, neglected, or exploited, or who are at risk of abuse, neglect, or exploitation, and the families of those children; providing adoption services; and providing adult protective services.

(D) Providing mental health services to children and adults to reduce failure in school, harm to self or others, homelessness, and preventable incarceration or institutionalization.

(E) Preventing, treating, and providing recovery services for substance abuse.

(2) "2011 Realignment Legislation" means legislation enacted on or before September 30, 2012, to implement the state budget plan, that is entitled 2011 Realignment and provides for the assignment of Public Safety Services responsibilities to local agencies, including related reporting responsibilities. The legislation shall provide local agencies with maximum flexibility and control over the design, administration, and delivery of Public Safety Services consistent with federal law and funding requirements, as determined by the Legislature. However, 2011 Realignment Legislation shall include no new programs assigned to local agencies after January 1, 2012, except for the early periodic screening, diagnosis, and

treatment (EPSDT) program and mental health managed care.

(b) (1) Except as provided in subdivision (d), commencing in the 2011–12 fiscal year and continuing thereafter, the following amounts shall be deposited into the Local Revenue Fund 2011, as established by Section 30025 of the Government Code, as follows:

(A) All revenues, less refunds, derived from the taxes described in Sections 6051.15 and 6201.15 of the Revenue and Taxation Code, as those sections read on July 1, 2011.

(B) All revenues, less refunds, derived from the vehicle license fees described in Section 11005 of the Revenue and Taxation Code, as that section read on July 1, 2011.

(2) On and after July 1, 2011, the revenues deposited pursuant to paragraph (1) shall not be considered General Fund revenues or proceeds of taxes for purposes of Section 8 of Article XVI of the California Constitution.

(c) (1) Funds deposited in the Local Revenue Fund 2011 are continuously appropriated exclusively to fund the provision of Public Safety Services by local agencies. Pending full implementation of the 2011 Realignment Legislation, funds may also be used to reimburse the State for program costs incurred in providing Public Safety Services on behalf of local agencies. The methodology for allocating funds shall be as specified in the 2011 Realignment Legislation.

(2) The county treasurer, city and county treasurer, or other appropriate official shall create a County Local Revenue Fund 2011 within the treasury of each county or city and county. The money in each County Local Revenue Fund 2011 shall be exclusively used to fund the provision of Public Safety Services by local agencies as specified by the 2011 Realignment Legislation.

(3) Notwithstanding Section 6 of Article XIII B, or any other constitutional provision, a mandate of a new program or higher level of service on a local agency imposed by the 2011 Realignment Legislation, or by any regulation adopted or any executive order or administrative directive issued to implement that legislation, shall not constitute a mandate requiring the State to provide a subvention of funds within the meaning of that section. Any requirement that a local agency comply with Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, with respect to performing its Public Safety Services responsibilities, or any other matter, shall not be a reimbursable mandate under Section 6 of Article XIII B.

(4) (A) Legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service required by legislation, described in this subparagraph, above the level for which funding has been provided.

(B) Regulations, executive orders, or administrative directives, implemented after October 9, 2011, that are not necessary to implement the 2011 Realignment Legislation, and that have an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, shall apply to local agencies only to the extent that the State provides annual funding for the cost increase. Local agencies shall not be obligated to provide programs or levels of service pursuant to new regulations, executive orders, or administrative directives, described in this subparagraph, above the level for which funding has been provided.

(C) Any new program or higher level of service provided by local agencies, as described in subparagraphs (A) and (B), above the level for which funding has been provided, shall not require a subvention of funds by the State nor otherwise be subject to Section 6 of Article XIII B. This paragraph shall not apply to legislation currently exempt from subvention under paragraph (2) of subdivision (a) of Section 6 of Article XIII B as that paragraph read on January 2, 2011.

(D) The State shall not submit to the federal government any plans or waivers, or amendments to those plans or waivers, that have an overall effect of increasing the cost borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, except to the extent that the plans, waivers, or amendments are required by federal law, or the State provides annual funding for the cost increase.

(E) The State shall not be required to provide a subvention of funds pursuant to this paragraph for a mandate that is imposed by the State at the request of a local agency or to comply with federal law. State funds required by this paragraph shall be from a source other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(5) (A) For programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, if there are subsequent changes in federal statutes or regulations that alter the conditions under which federal matching funds as described in the 2011 Realignment Legislation are obtained, and have the overall effect of increasing the costs incurred by a local agency, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State.

(B) When the State is a party to any complaint brought in a federal judicial or administrative proceeding that involves one or more of the programs described in subparagraphs (C) to (E), inclusive, of paragraph (1) of subdivision (a) and included in the 2011 Realignment Legislation, and there is a settlement or judicial or administrative order that imposes a cost in the form of a monetary penalty or has the overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by the 2011 Realignment Legislation, the State shall annually provide at least 50 percent of the nonfederal share of those costs as determined by the State. Payment by the State is not required if the State determines that the settlement or order relates to one or more local agencies failing to perform a ministerial duty, failing to perform a legal obligation in good faith, or acting in a negligent or reckless manner.

(C) The state funds provided in this paragraph shall be from funding sources other than those described in subdivisions (b) and (d), ad valorem property taxes, or the Social Services Subaccount of the Sales Tax Account of the Local Revenue Fund.

(6) If the State or a local agency fails to perform a duty or obligation under this section or under the 2011

Realignment Legislation, an appropriate party may seek judicial relief. These proceedings shall have priority over all other civil matters.

(7) The funds deposited into a County Local Revenue Fund 2011 shall be spent in a manner designed to maintain the State's eligibility for federal matching funds, and to ensure compliance by the State with applicable federal standards governing the State's provision of Public Safety Services.

(8) The funds deposited into a County Local Revenue Fund 2011 shall not be used by local agencies to supplant other funding for Public Safety Services.

(d) If the taxes described in subdivision (b) are reduced or cease to be operative, the State shall annually provide moneys to the Local Revenue Fund 2011 in an amount equal to or greater than the aggregate amount that otherwise would have been provided by the taxes described in subdivision (b). The method for determining that amount shall be described in the 2011 Realignment Legislation, and the State shall be obligated to provide that amount for so long as the local agencies are required to perform the Public Safety Services responsibilities assigned by the 2011 Realignment Legislation. If the State fails to annually appropriate that amount, the Controller shall transfer that amount from the General Fund in pro rata monthly shares to the Local Revenue Fund 2011. Thereafter, the Controller shall disburse these amounts to local agencies in the manner directed by the 2011 Realignment Legislation. The state obligations under this subdivision shall have a lower priority claim to General Fund money than the first priority for money to be set apart under Section 8 of Article XVI and the second priority to pay voter-approved debts and liabilities described in Section 1 of Article XVI.

(e) (1) To ensure that public education is not harmed in the process of providing critical protection to local Public Safety Services, the Education Protection Account is hereby created in the General Fund to receive and disburse the revenues derived from the incremental increases in taxes imposed by this section, as specified in subdivision (f).

(2) (A) Before June 30, 2013, and before June 30 of each year from 2014 to ~~2018~~ *2030*, inclusive, the Director of Finance shall estimate the total amount of additional revenues, less refunds, that will be derived from the incremental increases in tax rates made in subdivision (f) that will be available for transfer into the Education Protection Account during the next fiscal year. The Director of Finance shall make the same estimate by January 10, 2013, for additional revenues, less refunds, that will be received by the end of the 2012–13 fiscal year.

(B) During the last 10 days of the quarter of each of the first three quarters of each fiscal year from 2013–14 to ~~2018–19~~ *2030–31*, inclusive, the Controller shall transfer into the Education Protection Account one-fourth of the total amount estimated pursuant to subparagraph (A) for that fiscal year, except as this amount may be adjusted pursuant to subparagraph (D).

(C) In each of the fiscal years from 2012–13 to ~~2020–21~~ *2032–33*, inclusive, the Director of Finance shall calculate an adjustment to the Education Protection Account, as specified by subparagraph (D), by adding together the following amounts, as applicable:

(i) In the last quarter of each fiscal year from 2012–13 to ~~2018–19~~ *2030–31*, inclusive, the Director of Finance shall recalculate the estimate made for the fiscal year pursuant to subparagraph (A), and shall subtract from this updated estimate the amounts previously transferred to the Education Protection Account for that fiscal year.

(ii) In June 2015 and in every June from 2016 to ~~2021~~ *2033*, inclusive, the Director of Finance shall make a final determination of the amount of additional revenues, less refunds, derived from the incremental increases in tax rates made in subdivision (f) for the fiscal year ending two years prior. The amount of the updated estimate calculated in clause (i) for the fiscal year ending two years prior shall be subtracted from the amount of this final determination.

(D) If the sum determined pursuant to subparagraph (C) is positive, the Controller shall transfer an amount equal to that sum into the Education Protection Account within 10 days preceding the end of the fiscal year. If that amount is negative, the Controller shall suspend or reduce subsequent quarterly transfers, if any, to the Education Protection Account until the total reduction equals the negative amount herein described. For purposes of any calculation made pursuant to clause (i) of subparagraph (C), the amount of a quarterly transfer shall not be modified to reflect any suspension or reduction made pursuant to this subparagraph.

(E) Before June 30, 2018, and before June 30 of each year from 2019 to 2030, inclusive, the Director of Finance shall estimate the amount of the additional revenues, less refunds, to be derived in the following fiscal year from the incremental increases in tax rates made in subdivision (f), that, when combined with all other available General Fund revenues, will be required to meet:

(i) The minimum funding guarantee of Section 8 of Article XVI for that following fiscal year; and

(ii) The workload budget for that following fiscal year, excluding any program expenditures already accounted for through clause (i). For purposes of this section, "workload budget" has the meaning set forth in Section 13308.05 of the Government Code, as that section read and was interpreted by the Department of Finance on January 1, 2016, provided, however, that "currently authorized services" shall mean only those services that would have been considered "currently authorized services" under Section 13308.05 of the Government Code as of January 1, 2016.

(F) In order to enhance the ability of all California school children and their families to receive regular, quality health care and thereby minimize school absenteeism due to health-related problems, whenever the Director of Finance estimates that the amount available for transfer into the Education Protection Account during the following fiscal year exceeds the amount of revenues required from that account pursuant to subparagraph (E) for that following fiscal year, the director shall identify the remaining amount. Fifty percent of that remainder, up to a maximum of two billion dollars in any single fiscal year, shall be allocated by the Controller from the Education Protection Account to the California Department of Health Care Services on a quarterly basis to increase funding for the existing health care programs and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code. The funding shall be used only for critical, emergency, acute, and preventive health care services to children and their families, provided by health care professionals and health facilities that are licensed pursuant to Section 1250 of the Health and Safety Code, and to health plans or others that manage the provision of health care for Medi-Cal

beneficiaries that are contracting with the California Department of Health Care Services to provide health benefits pursuant to this section.

(G) The allocation provided for in subparagraph (F) may be suspended by statute during a fiscal year in which a budget emergency has been declared, provided, however, that the allocation shall not be reduced beyond the proportional reduction in overall General Fund expenditures for that year. For purposes of this section, "budget emergency" has the same meaning as in paragraph (2) of subdivision (b) of Section 22 of Article XVI.

(H) The funding provided pursuant to subparagraph (F) shall not be used to supplant existing state General Funds for the nonfederal share of payments for those programs and, consistent with federal law, shall be used to obtain federal matching Medicaid funds.

(3) All moneys in the Education Protection Account are hereby continuously appropriated for the support of school districts, county offices of education, charter schools, and community college districts as set forth in this paragraph*, and for health care as set forth in subparagraph (F) of paragraph (2)*.

(A) Eleven percent of the moneys appropriated *for education* pursuant to this paragraph shall be allocated quarterly by the Board of Governors of the California Community Colleges to community college districts to provide general purpose funding to community college districts in proportion to the amounts determined pursuant to Section 84750.5 of the Education Code, as that code section read ~~upon voter approval of this section~~ *on November 6, 2012*. The allocations calculated pursuant to this subparagraph shall be offset by the amounts specified in subdivisions (a), (c), and (d) of Section 84751 of the Education Code, as that section read ~~upon voter approval of this section~~ *on November 6, 2012*, that are in excess of the amounts calculated pursuant to Section 84750.5 of the Education Code, as that section read ~~upon voter approval of this section~~ *on November 6, 2012*, provided that no community college district shall receive less than one hundred dollars ($100) per full time equivalent student.

(B) Eighty-nine percent of the moneys appropriated *for education* pursuant to this paragraph shall be allocated quarterly by the Superintendent of Public Instruction to provide general purpose funding to school districts, county offices of education, and state general-purpose funding to charter schools in proportion to the revenue limits calculated pursuant to Sections 2558 and 42238 of the Education Code and the amounts calculated pursuant to Section 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section~~ *on November 6, 2012*. The amounts so calculated shall be offset by the amounts specified in subdivision (c) of Section 2558 of, paragraphs (1) through (7) of subdivision (h) of Section 42238 of, and Section 47635 of, the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section~~ *on November 6, 2012,* that are in excess of the amounts calculated pursuant to Sections 2558, 42238, and 47633 of the Education Code for county offices of education, school districts, and charter schools, respectively, as those sections read ~~upon voter approval of this section~~ *on November 6, 2012*, provided that no school district, county office of education, or charter school shall receive less than two hundred dollars ($200) per unit of average daily attendance.

(4) This subdivision is self-executing and requires no legislative action to take effect. Distribution of the moneys in the Education Protection Account by the Board of Governors of the California Community Colleges and Superintendent of Public Instruction shall not be delayed or otherwise affected by failure of the Legislature and Governor to enact an annual budget bill pursuant to Section 12 of Article IV, by invocation of ~~paragraph~~ *subdivision* (h) of Section 8 of Article XVI, or by any other action or failure to act by the Legislature or Governor.

(5) Notwithstanding any other provision of law, the moneys deposited in the Education Protection Account *for education* shall not be used to pay any costs incurred by the Legislature, the Governor, or any agency of state government.

(6) A community college district, county office of education, school district, or charter school shall have sole authority to determine how the moneys received from the Education Protection Account are spent in the school or schools within its jurisdiction, provided, however, that the appropriate governing board or body shall make these spending determinations in open session of a public meeting of the governing board or body and shall not use any of the funds from the Education Protection Account for salaries or benefits of administrators or any other administrative costs. Each community college district, county office of education, school district, and charter school shall annually publish on its Internet Web site an accounting of how much money was received from the Education Protection Account and how that money was spent.

(7) The annual independent financial and compliance audit required of community college districts, county offices of education, school districts, and charter schools shall, in addition to all other requirements of law, ascertain and verify whether the funds provided from the Education Protection Account have been properly disbursed and expended as required by this section. Expenses incurred by those entities to comply with the additional audit requirement of this section may be paid with funding from the Education Protection Account and shall not be considered administrative costs for purposes of this section.

(8) Revenues, less refunds, derived pursuant to subdivision (f) for deposit in the Education Protection Account pursuant to this section shall be deemed "General Fund revenues," "General Fund proceeds of taxes," and "moneys to be applied by the State for the support of school districts and community college districts" for purposes of Section 8 of Article XVI.

(f) (1) (A) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, for the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers at the rate of 1/4 percent of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in this State on and after January 1, 2013, and before January 1, 2017.

(B) In addition to the taxes imposed by Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, an excise tax is hereby imposed on the storage, use, or other consumption in this State of tangible personal property purchased from any retailer on and after

January 1, 2013, and before January 1, 2017, for storage, use, or other consumption in this state at the rate of 1/4 percent of the sales price of the property.

(C) The Sales and Use Tax Law, including any amendments enacted on or after the effective date of this section, shall apply to the taxes imposed pursuant to this paragraph.

(D) This paragraph shall become inoperative on January 1, 2017.

(2) For any taxable year beginning on or after January 1, 2012, and before January 1, ~~2019~~ *2031*, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (a) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A) (i) For that portion of taxable income that is over two hundred fifty thousand dollars ($250,000) but not over three hundred thousand dollars ($300,000), the tax rate is 10.3 percent of the excess over two hundred fifty thousand dollars ($250,000).

(ii) For that portion of taxable income that is over three hundred thousand dollars ($300,000) but not over five hundred thousand dollars ($500,000), the tax rate is 11.3 percent of the excess over three hundred thousand dollars ($300,000).

(iii) For that portion of taxable income that is over five hundred thousand dollars ($500,000), the tax rate is 12.3 percent of the excess over five hundred thousand dollars ($500,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C) (i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on ~~the date it becomes effective~~ *November 6, 2012*.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, ~~2019~~ *2031*.

(3) For any taxable year beginning on or after January 1, 2012, and before January 1, ~~2019~~ *2031*, with respect to the tax imposed pursuant to Section 17041 of the Revenue and Taxation Code, the income tax bracket and the rate of 9.3 percent set forth in paragraph (1) of subdivision (c) of Section 17041 of the Revenue and Taxation Code shall be modified by each of the following:

(A) (i) For that portion of taxable income that is over three hundred forty thousand dollars ($340,000) but not over four hundred eight thousand dollars ($408,000), the tax rate is 10.3 percent of the excess over three hundred forty thousand dollars ($340,000).

(ii) For that portion of taxable income that is over four hundred eight thousand dollars ($408,000) but not over six hundred eighty thousand dollars ($680,000), the tax rate is 11.3 percent of the excess over four hundred eight thousand dollars ($408,000).

(iii) For that portion of taxable income that is over six hundred eighty thousand dollars ($680,000), the tax rate is 12.3 percent of the excess over six hundred eighty thousand dollars ($680,000).

(B) The income tax brackets specified in clauses (i), (ii), and (iii) of subparagraph (A) shall be recomputed, as otherwise provided in subdivision (h) of Section 17041 of the Revenue and Taxation Code, only for taxable years beginning on and after January 1, 2013.

(C) (i) For purposes of subdivision (g) of Section 19136 of the Revenue and Taxation Code, this paragraph shall be considered to be chaptered on ~~the date it becomes effective~~ *November 6, 2012*.

(ii) For purposes of Part 10 (commencing with Section 17001) of, and Part 10.2 (commencing with Section 18401) of, Division 2 of the Revenue and Taxation Code, the modified tax brackets and tax rates established and imposed by this paragraph shall be deemed to be established and imposed under Section 17041 of the Revenue and Taxation Code.

(D) This paragraph shall become inoperative on December 1, ~~2019~~ *2031*.

(g) (1) The Controller, pursuant to his or her statutory authority, may perform audits of expenditures from the Local Revenue Fund 2011 and any County Local Revenue Fund 2011, and shall audit the Education Protection Account to ensure that those funds are used and accounted for in a manner consistent with this section.

(2) The Attorney General or local district attorney shall expeditiously investigate, and may seek civil or criminal penalties for, any misuse of moneys from the County Local Revenue Fund 2011 or the Education Protection Account.

SEC. 5. Conflicting Measures.

In the event that this measure and another measure that affects the tax rates for personal income shall appear on the same statewide 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 than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and the other measure or measures shall be null and void.

SEC. 6. Severability.

If the provisions of this measure, or part thereof, are 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 measure are severable.

SEC. 7. Proponent Standing.

Notwithstanding any other provision of law, if the state, government agency, or any of its officials fail to defend the constitutionality of this measure, following its approval by the voters, any other government employer, the proponent, or in his or her absence, any citizen of this state shall have the authority to intervene in any court action challenging the constitutionality of this measure for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court of California or the Supreme Court of the United States. The fees and costs of defending the action

shall be a charge on funds appropriated to the Attorney General, which shall be satisfied promptly.

SEC. 8. Effective Date.

This measure shall take effect immediately upon passage.

PROPOSITION 56

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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 a section to the California Constitution and amends and adds sections to the Revenue and Taxation 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

The California Healthcare, Research and Prevention Tobacco Tax Act of 2016

SECTION 1. Findings and Declarations.

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(a) Tobacco use is the single most preventable cause of death and disease in California, claiming the lives of more than 40,000 people every year. Each year thousands of Californians require medical and dental treatment as a result of tobacco use.

(b) Healthcare treatment of all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases continues to impose a significant financial burden upon California's overstressed healthcare system. Tobacco use costs Californians more than $13.29 billion in healthcare expenses every year, of which $3.5 billion is paid for by taxpayers through existing healthcare programs and services that provide healthcare, treatment, and services for Californians. The cost of lost productivity due to tobacco use adds an additional estimated $10.35 billion to the annual economic consequences of smoking and tobacco use in California.

(c) An increase in the tobacco tax is an appropriate way to decrease tobacco use and mitigate the costs of healthcare treatment and improve existing programs providing for quality healthcare and access to healthcare services for families and children. It will save lives and save state and local government money in the future.

(d) An increase in funding for existing healthcare programs and services that treat all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases and conditions will expand the number of healthcare providers that treat patients with such diseases and conditions. Funds spent for this purpose can be used to match federal funds, with the federal government putting up as much as nine dollars for every dollar spent from this fund.

(e) Most electronic cigarettes contain nicotine, which is derived from tobacco and is a highly addictive drug. Electronic cigarettes are currently not subject to any tobacco taxation, making them cheaper and potentially more attractive, especially to young people.

(f) There are more than 470 electronic cigarette brands for sale today offered in over 7,700 flavors including candy-flavors that appeal to youth, such as Captain Crunch, gummy bear, cotton candy, Atomic Fireball, and fruit loops. The fastest growing age range for electronic cigarettes is middle school and high school students and according to the U.S. Centers for Disease Control and Prevention, electronic cigarette use among this group tripled from 2013 to 2014.

(g) Research into the causes, early detection, and effective treatment, care, prevention, and potential cures of all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases will ultimately save lives and save state and local government money in the future.

(h) There is an urgent need for research in California for new and effective treatments for all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases. Such research transforms scientific discoveries into clinical applications that reduce the incidence and mortality of such diseases and conditions.

(i) Funding prevention programs designed to discourage individuals, particularly youth, from taking up smoking and the use of other tobacco products through health education and health promotion programs will save lives and save state and local government money in the future.

(j) A reinvigorated tobacco control program will allow targeted public health efforts to combat the tobacco industry's predatory marketing to ethnic groups, driving down smoking rates and ultimately reducing cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases in these California communities.

(k) Funding implementation and administrative programs to support law enforcement efforts to reduce illegal sales of tobacco products to minors, cigarette smuggling, and tobacco tax evasion will save lives and save state and local government money in the future.

(*l*) California faces a shortage of physicians and dentists to meet the growing healthcare needs of its residents. As a result, access to primary and oral healthcare, treatment for tobacco-related diseases, regular check-ups and other urgent healthcare needs will suffer. California taxpayers support the education of thousands of medical and dental students every year, yet because of limits on the number of residency programs, many of those physicians and dentists are forced out of state to continue their training, leaving patients in California without access to care. Funding implementation and administrative programs that will help keep hundreds more doctors in California every year to improve the health of Californians will save lives and save state and local government money in the future.

(m) Medical studies have shown that the smoking of cigarettes and use of other tobacco products affects oral health by causing dental disease, including gum disease and bone loss, cancers of the mouth and throat, and severe tooth wear. Smoking causes half of the cases of gum disease, which results in increased tooth loss. Oral cancer risk for smokers is at least six times higher than for nonsmokers and 75% of all oral cancer in the United States is related to tobacco use. Oral cancer risk for smokeless tobacco increases 50-fold over nonsmokers. There is an association between maternal smoking during pregnancy and cleft lip development in fetuses. Tobacco cessation reduces the risk of mouth and throat cancer by 50%. Funding programs that educate, prevent and treat dental diseases, including those caused by use of tobacco, will improve the lives of Californians and save state and local government money in the future.

(n) Increasing the cost of cigarettes and tobacco products is widely recognized as the most effective way to reduce smoking across California, especially by young people. The

2000 U.S. Surgeon General's Report, Reducing Tobacco Use, found that raising tobacco-product prices decreases the prevalence of tobacco use, particularly among kids and young adults, and that tobacco tax increases produce "substantial long-term improvements in health." From its review of existing research, the report concluded that raising tobacco taxes is one of the most effective tobacco prevention and control strategies. Reducing smoking saves lives and saves state and local government money in the future.

(o) Because increasing the tobacco tax will reduce smoking and the use of other tobacco products, it is important to protect existing tobacco tax funded programs from a decline in tax revenues.

(p) California currently taxes cigarettes at only $0.87 per pack, and ranks 35th in tobacco tax rates, reflecting one of the lowest tobacco taxes in the United States. As of January, 2016, the national average will be $1.60 per pack. Thirty-two states have cigarette tax rates of $1 per pack or higher, and California is well below other western states (Washington: $3.025; Oregon: $1.31; Nevada: $1.80; and Arizona: $2). California last raised its tobacco tax in 1998.

SEC. 2. Statement of Purpose.

The purpose of this act is to increase the tax on tobacco and other tobacco products, including electronic cigarettes, in order to:

(a) Save the lives of Californians and save state and local government money in the future by reducing smoking and tobacco use among all Californians, but particularly youth.

(b) Provide funds to increase funding for existing healthcare programs and services that treat all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases, expand the number of healthcare providers, and maximize federal funding for these programs and services.

(c) Provide funds to support research into the causes of and cures for all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases, and to transform such scientific discoveries into clinical applications to reduce the incidence and mortality of such diseases and conditions.

(d) Provide funds to support prevention programs aimed at discouraging individuals from using cigarettes and other tobacco products, including electronic cigarettes.

(e) Provide funds for implementation and administrative purposes to reduce cigarette smuggling, tobacco tax evasion, and illegal sales of tobacco products to minors, fund medical training for new doctors to treat diseases, including those caused by tobacco use, and fund programs to prevent and treat dental diseases, including those caused by tobacco use.

(f) Protect existing tobacco tax funded programs, which currently save Californians millions of dollars in healthcare costs.

(g) Provide a full accounting of how funds raised are spent to further the purposes of this act without creating new bureaucracies.

SEC. 3. Definition of Tobacco Products.

SEC. 3.1. Section 30121 of the Revenue and Taxation Code is amended to read:

30121. For purposes of this article:

(a) "Cigarettes" has the same meaning as in Section 30003, as it read on January 1, 1988.

(b) "Tobacco products" includes, but is not limited to, ~~all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent, tobacco~~ *a product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff*, but does not include cigarettes. *Tobacco products shall also include electronic cigarettes. Tobacco products shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. Tobacco products does not include any food products as that term is defined pursuant to Section 6359.*

(c) "Electronic cigarettes" means any device or delivery system sold in combination with nicotine which can be used to deliver to a person nicotine in aerosolized or vaporized form, including, but not limited to, an e-cigarette, e-cigar, e-pipe, vape pen, or e-hookah. Electronic cigarettes include any component, part, or accessory of such a device that is used during the operation of the device when sold in combination with any liquid or substance containing nicotine. Electronic cigarettes also include any liquid or substance containing nicotine, whether sold separately or sold in combination with any device that could be used to deliver to a person nicotine in aerosolized or vaporized form. Electronic cigarettes do not include any device not sold in combination with any liquid or substance containing nicotine, or any battery, battery charger, carrying case, or other accessory not used in the operation of the device if sold separately. Electronic cigarettes shall not include any product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where that product is marketed and sold solely for such approved use. As used in this subdivision, nicotine does not include any food products as that term is defined pursuant to Section 6359.

~~(c)~~ *(d)* "Fund" means the Cigarette and Tobacco Products Surtax Fund created by Section 30122.

SEC. 3.2. Section 30131.1 of the Revenue and Taxation Code is amended to read:

30131.1. The following definitions apply for purposes of this article:

(a) "Cigarette" has the same meaning as in Section 30003, as it read on January 1, 1997.

(b) "Tobacco products" ~~includes, but is not limited to, all forms of cigars, smoking tobacco, chewing tobacco, snuff, and any other articles or products made of, or containing at least 50 percent, tobacco, but does not include cigarettes~~ *shall have the same meaning as in subdivision (b) of Section 30121, as amended by the California Healthcare, Research and Prevention Tobacco Tax Act of 2016.*

SEC. 4. The California Healthcare, Research and Prevention Tobacco Tax Act of 2016.

SEC. 4.1. Article 2.5 (commencing with Section 30130.50) is added to Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code, to read:

Article 2.5. California Healthcare, Research and Prevention Tobacco Tax Act of 2016

30130.50. Definitions.

For the purposes of this article:

(a) "Cigarette" has the same meaning as that in Section 30003 as it read on January 1, 2015.

(b) "Tobacco products" has the same meaning as that in subdivision (b) of Section 30121, as amended by this act.

30130.51. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Cigarette Distribution Tax.

(a) In addition to any other taxes imposed upon the distribution of cigarettes under this part, there shall be imposed an additional tax upon every distributor of cigarettes at the rate of one hundred mills ($0.100) for each cigarette distributed on or after the first day of the first calendar quarter commencing more than 90 days after the effective date of this act.

(b) The board shall adopt regulations providing for the implementation of an equivalent tax on electronic cigarettes as that term is defined in subdivision (c) of Section 30121, and the methods for collection of the tax. Such regulations shall include imposition of an equivalent tax on any device intended to be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device when sold separately or as a package; any component, part, or accessory of such a device that is used during the operation of the device, whether sold separately or as a package with such device; and any liquid or substance containing nicotine, whether sold separately or as a package with any device that would allow it to be inhaled. Such regulations may include, but are not limited to, defining who is a distributor of electronic cigarettes pursuant to Section 30011 and the licensing requirements of any such person.

(c) Notwithstanding any other provision of this part, all revenues resulting from the tax imposed by subdivision (a) and all revenues resulting from the equivalent increase in the tax on tobacco products, including electronic cigarettes, imposed by subdivision (b) of Section 30123, shall be deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund created by Section 30130.53.

30130.52. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Cigarette Floor Taxes.

(a) (1) In addition to any other tax, every dealer and wholesaler, for the privilege of holding or storing cigarettes for sale, use, or consumption, shall pay a floor stock tax for each cigarette in its possession or under its control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act at the rate of one hundred mills ($0.100) for each cigarette.

(2) Every dealer and wholesaler shall file a return with the board on or before the first day of the first calendar quarter commencing more than 180 days after the effective date of this act on a form prescribed by the board, showing the number of cigarettes in its possession or under its control in this state at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act. The amount of tax shall be computed and shown on the return.

(b) (1) Every licensed cigarette distributor, for the privilege of distributing cigarettes and for holding or storing cigarettes for sale, use, or consumption, shall pay a cigarette indicia adjustment tax for each California cigarette tax stamp that is affixed to any package of cigarettes and for each unaffixed California cigarette tax stamp in its possession or under its control at 12:01 a.m. on the first day of the first calendar quarter commencing more than 90 days after the effective date of this act at the following rates:

(A) Two dollars and fifty cents ($2.50) for each stamp bearing the designation "25."

(B) Two dollars ($2) for each stamp bearing the designation "20."

(C) One dollar ($1) for each stamp bearing the designation "10."

(2) Every licensed cigarette distributor shall file a return with the board on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act on a form prescribed by the board, showing the number of stamps described in subparagraphs (A), (B), and (C) of paragraph (1). The amount of tax shall be computed and shown on the return.

(c) The taxes required to be paid by this section are due and payable on or before the first day of the first calendar quarter commencing 180 days after the effective date of this act. Payments shall be made by remittances payable to the board and the payments shall accompany the return and forms required to be filed by this section.

(d) Any amount required to be paid by this section that is not timely paid shall bear interest at the rate and by the method established pursuant to Section 30202 from the first day of the first calendar quarter commencing 180 days after the effective date of this act, until paid, and shall be subject to determination, and redetermination, and any penalties provided with respect to determinations and redeterminations.

30130.53. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund.

(a) The California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund is hereby established in the State Treasury.

(b) All revenues raised pursuant to the taxes imposed by this article, less refunds made pursuant to Article 1 (commencing with Section 30361) of Chapter 6, shall be deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund.

(c) Notwithstanding any other law, the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund is a trust fund established solely to carry out the purposes of this act and all revenues deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund, together with interest earned by the fund, are hereby continuously appropriated for the purposes of this act without regard to fiscal year and shall be expended only in accordance with the provisions of this act and its purposes.

(d) Notwithstanding any other law, revenues deposited into the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund, including any interest earned by the fund, shall only be used for the specific purposes set forth in this act, and shall be appropriated and expended only for the purposes expressed in this act and shall not be subject to appropriation, reversion, or

transfer by the Legislature, the Governor, the Director of Finance, or the Controller for any purpose other than those specified in this act, nor shall such revenues be loaned to the General Fund or any other fund of the state or any local government fund.

30130.54. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Effect on Tobacco Consumption and Tax Revenue.

(a) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect that the additional taxes imposed on cigarettes by this article, 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 board to be a direct result of the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, the board shall determine the fiscal effect the decrease in consumption has on the Cigarette and Tobacco Products Surtax Fund created by Section 30122 (Proposition 99 as approved by the voters at the November 8, 1988, statewide general election), the Breast Cancer Fund created by Section 30461.6, and the California Children and Families Trust Fund created by Section 30131 (Proposition 10 as approved by the voters at the November 3, 1998, statewide general election), and the revenues derived from Section 30101.

(b) The Controller shall transfer from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund to those affected funds described in subdivision (a) the amount necessary to offset the revenue decrease directly resulting from the imposition of additional taxes by this article.

(c) The board shall determine within one year of the effective date of this act, and annually thereafter, the effect, if any, that the additional taxes imposed on cigarettes by this article, 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, including from the illegal sale of cigarettes and tobacco products. To the extent that there is a loss of state or local government sales and use tax revenues and such loss is determined by the board to be a direct result of the additional tax imposed on cigarettes by this article, and the resulting increase in the tax on tobacco products required by subdivision (b) of Section 30123, including from the illegal sale of cigarettes and tobacco products, the board shall determine the fiscal effect on state and local government sales and use tax revenues.

(d) The Controller shall transfer from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund to the general fund of the state and those affected local governments described in subdivision (c) the amount necessary to offset the state and local sales and use tax revenue decrease directly resulting from the imposition of additional taxes by this article, including from the illegal sale of cigarettes and tobacco products.

(e) Transfers under this section shall be made by the Controller at such times as the Controller determines necessary to further the intent of this section.

30130.55. California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Distribution of Revenue.

After deducting and transferring the necessary funds pursuant to Section 30130.54 and subdivisions (a), (b), (c), (d), and (e) of Section 30130.57, the Controller shall annually allocate and transfer the remaining funds in the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund as follows:

(a) Eighty-two percent shall be transferred to the Healthcare Treatment Fund, which is hereby created, and shall be used by the State Department of Health Care Services to increase funding for the existing healthcare programs and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code, including those that provide healthcare, treatment, and services for Californians with tobacco-related diseases and conditions, by providing improved payments, for all healthcare, treatment, and services described in Chapter 7 (commencing with Section 14000) to Chapter 8.9 (commencing with Section 14700), inclusive, of Part 3 of Division 9 of the Welfare and Institutions Code. To the extent possible given the limits of funding under this article, payments and support for the nonfederal share of payments for healthcare, services, and treatment shall be increased based on criteria developed and periodically updated as part of the annual state budget process, provided that these funds shall not be used to supplant existing state general funds for these same purposes. These criteria shall include, but not be limited to, ensuring timely access, limiting specific geographic shortages of services, or ensuring quality care. Consistent with federal law, the funding shall be used to draw down federal funds. The funding shall be used only for care provided by health care professionals, clinics, health facilities that are licensed pursuant to Section 1250 of the Health and Safety Code, and to health plans contracting with the State Department of Health Care Services to provide health benefits pursuant to this section. The funding can be used for the nonfederal share of payments from governmental entities where applicable. The department shall, if required, seek any necessary federal approval for the implementation of this section.

(b) Thirteen percent shall be used for the purpose of funding comprehensive tobacco prevention and control programs, provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:

(1) Eighty-five percent to the State Department of Public Health Tobacco Control Program to be used for the tobacco control programs described beginning at Section 104375 of the Health and Safety Code. The State Department of Public Health shall award funds to state and local governmental agencies, tribes, universities and colleges, community-based organizations, and other qualified agencies for the implementation, evaluation, and dissemination of evidence-based health promotion and health communication activities in order to monitor, evaluate, and reduce tobacco and nicotine use, tobacco-related disease rates, and tobacco-related health disparities, and develop a stronger evidence base of effective prevention programming with not less than 15 percent of health promotion, health communication activities, and evaluation and tobacco use surveillance

funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities with the goal of eliminating tobacco-related disparities.

(2) Fifteen percent to the State Department of Education to be used for school programs to prevent and reduce the use of tobacco and nicotine products by young people as described in Section 104420 of the Health and Safety Code with not less than 15 percent of these funds being awarded to accelerate and monitor the rate of decline in tobacco-related disparities for the purpose of eliminating tobacco-related disparities.

(c) Five percent to the University of California for medical research of cancer, heart and lung tobacco-related diseases pursuant to Article 2 (commencing with Section 104500) of Chapter 1 of Part 3 of Division 103 of the Health and Safety Code to supplement the Cigarette and Tobacco Products Surtax Medical Research Program, provided that these funds be used under the following conditions:

(1) The funds shall be used for grants and contracts for basic, applied, and translational medical research in California into the prevention of, early detection of, treatments for, complementary treatments for, and potential cures for all types of cancer, cardiovascular and lung disease, oral disease, and tobacco-related diseases. Notwithstanding any other provision of law, the University of California, through the Tobacco Related Disease Research Program, shall have authority to expend funds received under this act for the purposes set forth in this subdivision.

(2) Any grants and contracts awarded shall be awarded using existing medical research program infrastructure and on the basis of scientific merit as determined by an open, competitive peer review process that assures objectivity, consistency, and high quality.

(3) Individuals or entities that receive the grants and contracts pursuant to this subdivision must reside or be located entirely within California.

(4) The research must be performed entirely within California.

(5) The funds shall not be used to supplant existing state or local funds for these same purposes.

30130.56. Independent Audit and Disclosure.

To provide full public accountability concerning the uses to which funds from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 are put, and to ensure full compliance with the California Healthcare, Research and Prevention Tobacco Tax Act of 2016:

(a) The nonpartisan California State Auditor shall conduct at least biennially an independent financial audit of the state and local agencies receiving funds pursuant to the California Healthcare, Research and Prevention Tobacco Tax Act of 2016. An audit conducted pursuant to this section shall include, but not be limited to, a review of the administrative costs expended by the state agencies that administer the fund.

(b) Based on the independent audit, the nonpartisan California State Auditor shall prepare a report detailing its review and include any recommendations for improvements. The report shall be made available to the public.

(c) Each state agency and department receiving funds pursuant to this act shall, on an annual basis, publish on its respective Internet Web site an accounting of how much money was received from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund and how that money was spent. The annual accounting shall also be posted on any social media outlets the state agency or department deems appropriate.

(d) The use of the funds received by the State Department of Health Care Services pursuant to subdivision (a) of Section 30130.55 shall be subject to the same restrictions, including, but not limited to, audits and prevention of fraud, imposed by existing law.

(e) The use of the funds received by the State Department of Public Health, the State Department of Education, and the University of California pursuant to subdivisions (b) and (c) of Section 30130.55 shall be subject to oversight by the Tobacco Education and Research Oversight Committee pursuant to Sections 104365 and 104370 of the Health and Safety Code.

30130.57. Implementation and Administrative Costs.

(a) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund shall be used to reimburse the board for expenses incurred in the administration, calculation, and collection of the tax imposed by this article and for expenses incurred in the calculation and distribution of funds and in the promulgation of regulations as required by this act, provided, however, that after deducting the necessary funds pursuant to subdivision (b) of Section 30130.54, not more than 5 percent annually of the funds remaining in the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund shall be used for such administrative costs.

(b) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund shall be used to reimburse the independent nonpartisan California State Auditor up to four hundred thousand dollars ($400,000) annually for actual costs incurred to conduct each of the audits required by Section 30130.56 for the purpose of providing public transparency and ensuring that the revenues generated by this article are used for healthcare, tobacco use prevention and research.

(c) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund in the amount of forty million dollars ($40,000,000) annually shall be used to provide funding to the University of California for the purpose and goal of increasing the number of primary care and emergency physicians trained in California. This goal shall be achieved by providing this funding to the University of California to sustain, retain, and expand graduate medical education programs to achieve the goal of increasing the number of primary care and emergency physicians in the State of California based on demonstrated workforce needs and priorities.

(1) For the purposes of this subdivision, "primary care" means internal medicine, family medicine, obstetrics/gynecology, and pediatrics.

(2) Funding shall be prioritized for direct graduate medical education costs for programs serving medically underserved areas and populations.

(3) For the purposes of this subdivision, all allopathic and osteopathic residency programs accredited by federally recognized accrediting organizations and located in California shall be eligible to apply to receive funding to support resident education in California.

(4) The University of California shall annually review physician shortages by specialty across the state and by

region. Based on this review, to the extent that there are demonstrated state or regional shortages of nonprimary care physicians, funds may be used to expand graduate medical education programs that are intended to address such shortages.

(d) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund in the amount of thirty million dollars ($30,000,000) annually shall be used to provide funding to the State Department of Public Health state dental program for the purpose and goal of educating about, preventing and treating dental disease, including dental disease caused by use of cigarettes and other tobacco products. This goal shall be achieved by the program providing this funding to activities that support the state dental plan based on demonstrated oral health needs, prioritizing serving underserved areas and populations. Funded program activities shall include, but not be limited to, the following: education, disease prevention, disease treatment, surveillance, and case management.

The department shall have broad authority to fully implement and effectuate the purposes of this subdivision, including the determination of underserved communities, the development of program protocols, the authority to reimburse state-sponsored services related to the program, and the authority to contract with one or more individuals or public or private entities to provide program activities.

(e) Moneys from the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund in the amount of forty-eight million dollars ($48,000,000) annually shall be used for the purpose of funding law enforcement efforts to reduce illegal sales of tobacco products, particularly illegal sales to minors; to reduce cigarette smuggling, tobacco tax evasion, the sale of tobacco products without a license and the sale of counterfeit tobacco products; to enforce tobacco-related laws, court judgments, and legal settlements; and to conduct law enforcement training and technical assistance activities for tobacco-related statutes; provided that these funds are not to be used to supplant existing state or local funds for these same purposes. These funds shall be apportioned in the following manner:

(1) Thirty million dollars ($30,000,000) annually to the California Department of Justice/Office of the Attorney General to be distributed to local law enforcement agencies to support and hire front-line law enforcement peace officers for programs, including, but not limited to, enforcement of state and local laws related to the illegal sales and marketing of tobacco to minors, and increasing investigative activities and compliance checks to reduce illegal sales of cigarettes and tobacco products to minors and youth.

(2) Six million dollars ($6,000,000) annually to the board to be used to enforce laws that regulate the distribution and retail sale of cigarettes and other tobacco products, such as laws that prohibit cigarette and tobacco product smuggling, counterfeiting, selling untaxed cigarettes and other tobacco products, and selling cigarettes and other tobacco products without a proper license.

(3) Six million dollars ($6,000,000) annually to the California Department of Public Health to be used to support programs, including, but not limited to, providing grants and contracts to local law enforcement agencies to provide training and funding for the enforcement of state and local laws related to the illegal sales of tobacco to minors, increasing investigative activities, and compliance checks, and other appropriate activities to reduce illegal sales of tobacco products to minors, including, but not limited to, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, pursuant to Section 22952 of the Business and Professions Code.

(4) Six million dollars ($6,000,000) annually to the California 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, and enforcing tobacco-related laws, court judgments, and settlements.

(f) Not more than 5 percent of the funds received pursuant to this article shall be used by any state or local agency or department receiving such funds for administrative costs.

(g) The California State Auditor shall promulgate regulations pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) to define administrative costs for purposes of this article. Such regulations shall take into account the differing nature of the agencies or departments receiving funds.

(h) The board shall determine beginning two years following the effective date of this act, and annually thereafter, any reduction in revenues, following the first year after the effective date of this act, resulting from a reduction in the consumption of cigarettes and tobacco products due to the additional taxes imposed on cigarettes by this article, and the increase in the tax on tobacco products required by subdivision (b) of Section 30123. If the board determines there has been a reduction in revenues, the amount of funds allocated pursuant to subdivisions (c), (d) and (e) shall be reduced proportionately.

30130.58. Statutory References.

Unless otherwise stated, all references in this act refer to statutes as they existed on January 1, 2016.

SEC. 5. Conforming Amendments to the Revenue and Taxation Code.

SEC. 5.1. Section 30014 of the Revenue and Taxation Code is amended to read:

30014. (a) "Transporter" means any person transporting into or within this state any of the following:

(1) Cigarettes not contained in packages to which are affixed California cigarette tax stamps or meter impressions.

(2) Tobacco products upon which the tobacco products surtax imposed by Article 2 (commencing with Section 30121), *Article 2.5 (commencing with Section 30130.50),* and Article 3 (commencing with Section 30131) of Chapter 2 has not been paid.

(b) "Transporter" shall not include any of the following:

(1) A licensed distributor.

(2) A common carrier.

(3) A person transporting cigarettes and tobacco products under federal internal revenue bond or customs control that are non-taxpaid under Chapter 52 of the Internal Revenue Act of 1954 as amended.

SEC. 5.2. Section 30104 of the Revenue and Taxation Code is amended to read:

30104. The taxes imposed by this part shall not apply to the sale of cigarettes or tobacco products by a distributor to a common carrier engaged in interstate or foreign passenger service or to a person authorized to sell cigarettes or tobacco products on the facilities of the carrier. Whenever cigarettes or tobacco products are sold by distributors to common carriers engaged in interstate or foreign passenger service for use or sale on facilities of the carriers, or to persons authorized to sell cigarettes or tobacco products on those facilities, the tax imposed ~~by Sections 30101, 30123, and 30131.2~~ *under this part* shall not be levied with respect to the sales of the cigarettes or tobacco products by the distributors, but a tax is hereby levied upon the carriers or upon the persons authorized to sell cigarettes or tobacco products on the facilities of the carriers, as the case may be, for the privilege of making sales in California at the same rate as set ~~forth in Sections 30101, 30123, and 30131.2.~~ *under this part.* Those common carriers and authorized persons shall pay the tax imposed by this section and file reports with the board, as provided in Section 30186.

SEC. 5.3. Section 30108 of the Revenue and Taxation Code is amended to read:

30108. (a) Every distributor engaged in business in this state and selling or accepting orders for cigarettes or tobacco products with respect to the sale of which the tax imposed ~~by Sections 30101, 30123, and 30131.2~~ *under this part* is inapplicable shall, at the time of making the sale or accepting the order or, if the purchaser is not then obligated to pay the tax with respect to his or her distribution of the cigarettes or tobacco products, at the time the purchaser becomes so obligated, collect the tax from the purchaser, if the purchaser is other than a licensed distributor, and shall give to the purchaser a receipt therefor in the manner and form prescribed by the board.

(b) Every person engaged in business in this state and making gifts of untaxed cigarettes or tobacco products as samples with respect to which the tax imposed ~~by Sections 30101, 30123, and 30131.2~~ *under this part* is inapplicable shall, at the time of making the gift or, if the donee is not then obligated to pay the tax with respect to his or her distribution of the cigarettes or tobacco products, at the time the donee becomes so obligated, collect the tax from the donee, if the donee is other than a licensed distributor, and shall give the donee a receipt therefor in the manner and form prescribed by the board. This section shall not apply to those distributions of cigarettes or tobacco products ~~which~~ *that* are exempt from tax under Section 30105.5.

(c) "Engaged in business in the state" means and includes any of the following:

(1) Maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.

(2) Having any representative, agent, salesperson, canvasser or solicitor operating in this state under the authority of the distributor or its subsidiary for the purpose of selling, delivering, or the taking of orders for cigarettes or tobacco products.

(d) The taxes required to be collected by this section constitute debts owed by the distributor, or other person required to collect the taxes, to the state.

SEC. 5.4. Section 30166 of the Revenue and Taxation Code is amended to read:

30166. Stamps and meter register settings shall be sold *to licensed distributors* at their denominated values less *a discount of* 0.85 percent*, which shall be capped at the first one dollar ($1.00) in denominated value* ~~to licensed distributors~~. Payment for stamps or meter register settings shall be made at the time of purchase, provided that a licensed distributor, subject to the conditions and provisions of this article, may be permitted to defer payments therefor.

SEC. 5.5. Section 30181 of the Revenue and Taxation Code is amended to read:

30181. (a) ~~When~~ *If* any tax imposed upon cigarettes under ~~Article 1 (commencing with Section 30101), Article 2 (commencing with Section 30121), and Article 3 (commencing with Section 30131) of Chapter 2~~ *this part* is not paid through the use of stamps or meter impressions, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a distribution of cigarettes occurs, or in the case of a sale of cigarettes on the facilities of a common carrier for which the tax is imposed pursuant to Section 30104, the tax shall be due and payable monthly on or before the 25th day of the month following the calendar month in which a sale of cigarettes on the facilities of the carrier occurs.

(b) Each distributor of tobacco products shall file a return in the form, as prescribed by the board, ~~which~~ *that* may include, but not be limited to, electronic media respecting the distributions of tobacco products and their wholesale cost during the preceding month, and any other information as the board may require to carry out this part. The return shall be filed with the board on or before the 25th day of the calendar month following the close of the monthly period for which it relates, together with a remittance payable to the board, of the amount of tax, if any, due under Article 2 (commencing with Section 30121) or Article 3 (commencing with Section 30131) of Chapter 2 for that period.

(c) To facilitate the administration of this part, the board may require the filing of the returns for longer than monthly periods.

(d) Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

~~(e) This section shall become operative on January 1, 2007.~~

SEC. 6. Conformity with State Constitution.

SEC. 6.1. Section 23 is added to Article XVI of the California Constitution, to read:

Sec. 23. The tax imposed by the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 and the revenue derived therefrom, including investment interest, shall not be considered General Fund revenues for purposes of Section 8 and its implementing statutes, and shall not be considered "General Fund revenues," "state revenues," or "General Fund proceeds of taxes" for purposes of subdivisions (a) and (b) of Section 8 and its implementing statutes.

SEC. 6.2. Section 14 is added to Article XIII B of the California Constitution, to read:

Sec. 14. "Appropriations subject to limitation" of each entity of government shall not include appropriations of revenue from the California Healthcare, Research and

Prevention Tobacco Tax Act of 2016 Fund created by the California Healthcare, Research and Prevention Tobacco Tax Act of 2016. 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 Healthcare, Research and Prevention Tobacco Tax Act of 2016 Fund.

SEC. 7. Severability.

If the provisions of this act, or part thereof, are 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. 8. Conflicting Measures.

(a) It is the intent of the people that in the event that this measure and another measure relating to the taxation of tobacco shall appear on the same statewide election ballot, the provisions of the other measure or measures shall not be deemed to be in conflict with this measure, and if approved by the voters, this measure shall take effect notwithstanding approval by the voters of another measure relating to the taxation of tobacco by a greater number of affirmative votes.

(b) If this measure is approved by the voters but superseded by law by any other conflicting ballot measure approved by the voters at the same election, and the conflicting measure is later held invalid, this measure shall be self-executing and given the full force of law.

SEC. 9. Amendments.

(a) Except as hereafter provided, this act may only be amended by the electors as provided in subdivision (c) of Section 10 of Article II of the California Constitution.

(b) The Legislature may amend subdivisions (a) and (c) of Section 30130.55 and Section 30130.57 of the Revenue and Taxation Code to further the purposes of the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 by a statute passed in each house by roll-call vote entered in the journal, two-thirds of the membership concurring.

(c) The Legislature may amend subdivision (b) of Section 30130.55 of the Revenue and Taxation Code to further the purposes of the California Healthcare, Research and Prevention Tobacco Tax Act of 2016 by a statute passed in each house by roll-call vote entered in the journal, four-fifths of the membership concurring.

SEC. 10. Effective Date.

This act shall become effective as provided in subdivision (a) of Section 10 of Article II of the California Constitution; provided, however, the amendment to Section 30121 of the Revenue and Taxation Code shall become effective April 1, 2017.

PROPOSITION 57

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 a section to the California Constitution and amends sections of 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

The Public Safety and Rehabilitation Act of 2016

SECTION 1. Title.

This measure shall be known and may be cited as "The Public Safety and Rehabilitation Act of 2016."

SEC. 2. Purpose and Intent.

In enacting this act, it is the purpose and intent of the people of the State of California to:

1. Protect and enhance public safety.

2. Save money by reducing wasteful spending on prisons.

3. Prevent federal courts from indiscriminately releasing prisoners.

4. Stop the revolving door of crime by emphasizing rehabilitation, especially for juveniles.

5. Require a judge, not a prosecutor, to decide whether juveniles should be tried in adult court.

SEC. 3. Section 32 is added to Article I of the California Constitution, to read:

SEC. 32. (a) The following provisions are hereby enacted to enhance public safety, improve rehabilitation, and avoid the release of prisoners by federal court order, notwithstanding anything in this article or any other provision of law:

(1) Parole Consideration: Any person convicted of a nonviolent felony offense and sentenced to state prison shall be eligible for parole consideration after completing the full term for his or her primary offense.

(A) For purposes of this section only, the full term for the primary offense means the longest term of imprisonment imposed by the court for any offense, excluding the imposition of an enhancement, consecutive sentence, or alternative sentence.

(2) Credit Earning: The Department of Corrections and Rehabilitation shall have authority to award credits earned for good behavior and approved rehabilitative or educational achievements.

(b) The Department of Corrections and Rehabilitation shall adopt regulations in furtherance of these provisions, and the Secretary of the Department of Corrections and Rehabilitation shall certify that these regulations protect and enhance public safety.

SEC. 4. Judicial Transfer Process.

SEC. 4.1. Section 602 of the Welfare and Institutions Code is amended to read:

602. ~~(a)~~ Except as provided in ~~subdivision (b)~~ *Section 707*, any person who is under 18 years of age when he or she violates any law of this state or of the United States or any ordinance of any city or county of this state defining crime other than an ordinance establishing a curfew based solely on age, is within the jurisdiction of the juvenile court, which may adjudge such person to be a ward of the court.

~~(b) Any person who is alleged, when he or she was 14 years of age or older, to have committed one of the following offenses shall be prosecuted under the general law in a court of criminal jurisdiction:~~

~~(1) Murder, as described in Section 187 of the Penal Code, if one of the circumstances enumerated in subdivision (a) of Section 190.2 of the Penal Code is~~

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~~alleged by the prosecutor, and the prosecutor alleges that the minor personally killed the victim.~~

~~(2) The following sex offenses, if the prosecutor alleges that the minor personally committed the offense, and if the prosecutor alleges one of the circumstances enumerated in the One Strike law, subdivision (d) or (e) of Section 667.61 of the Penal Code, applies:~~

~~(A) Rape, as described in paragraph (2) of subdivision (a) of Section 261 of the Penal Code.~~

~~(B) Spousal rape, as described in paragraph (1) of subdivision (a) of Section 262 of the Penal Code.~~

~~(C) Forcible sex offenses in concert with another, as described in Section 264.1 of the Penal Code.~~

~~(D) Forcible lewd and lascivious acts on a child under 14 years of age, as described in subdivision (b) of Section 288 of the Penal Code.~~

~~(E) Forcible sexual penetration, as described in subdivision (a) of Section 289 of the Penal Code.~~

~~(F) Sodomy or oral copulation in violation of Section 286 or 288a of the Penal Code, by force, violence, duress, menace, or fear of immediate and unlawful bodily injury on the victim or another person.~~

~~(G) Lewd and lascivious acts on a child under 14 years of age, as defined in subdivision (a) of Section 288, unless the defendant qualifies for probation under subdivision (d) of Section 1203.066 of the Penal Code.~~

SEC. 4.2. Section 707 of the Welfare and Institutions Code is amended to read:

707. (a) (1) In any case in which a minor is alleged to be a person described in ~~subdivision (a) of~~ Section 602 by reason of the violation, when he or she was 16 years of age or older, of any *felony* criminal statute*,* ~~or ordinance except those listed in subdivision (b),~~ *or of an offense listed in subdivision (b) when he or she was 14 or 15 years of age, the district attorney or other appropriate prosecuting officer may make a motion to transfer the minor from juvenile court to a court of criminal jurisdiction.* ~~upon~~ *The* motion ~~of the petitioner~~ *must be* made prior to the attachment of jeopardy. *Upon such motion,* the *juvenile* court shall ~~cause~~ *order* the probation officer to ~~investigate and~~ submit a report on the behavioral patterns and social history of the minor. ~~being considered for a determination of unfitness.~~ *The report shall include any written or oral statement offered by the victim pursuant to Section 656.2.*

(2) Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the juvenile court *shall decide whether the minor should be transferred to a court of criminal jurisdiction. In making its decision, the court shall consider the criteria specified in subparagraphs (A) to (E). If the court orders a transfer of jurisdiction, the court shall recite the basis for its decision in an order entered upon the minutes. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the transfer hearing, and no plea that may have been entered already shall constitute evidence at the hearing.* ~~may find that the minor is not a fit and proper subject to be dealt with under the juvenile court law if it concludes that the minor would not be amenable to the care, treatment, and training program available through the facilities of the juvenile court, based upon an evaluation of the criteria specified in clause (i) of subparagraphs (A) to (E), inclusive.~~

(A) (i) The degree of criminal sophistication exhibited by the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication.

(B) (i) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.

(C) (i) The minor's previous delinquent history.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior.

(D) (i) Success of previous attempts by the juvenile court to rehabilitate the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs.

(E) (i) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.

(ii) When evaluating the criterion specified in clause (i), the juvenile court may give weight to any relevant factor, including but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development.

~~A determination that the minor is not a fit and proper subject to be dealt with under the juvenile court law may be based on any one or a combination of the factors set forth in clause (i) of subparagraphs (A) to (E), inclusive, which shall be recited in the order of unfitness. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing, and no plea that may have been entered already shall constitute evidence at the hearing.~~

~~(2) (A) This paragraph shall apply to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she has attained 16 years of age, of any felony offense when the minor has been declared to be a ward of the court pursuant to Section 602 on one or more prior occasions if both of the following apply:~~

~~(i) The minor has previously been found to have committed two or more felony offenses.~~

~~(ii) The offenses upon which the prior petition or petitions were based were committed when the minor had attained 14 years of age.~~

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~~(B) Upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of the criteria specified in subclause (I) of clauses (i) to (v), inclusive.~~

~~(i) (I) The degree of criminal sophistication exhibited by the minor.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication.~~

~~(ii) (I) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.~~

~~(iii) (I) The minor's previous delinquent history.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior.~~

~~(iv) (I) Success of previous attempts by the juvenile court to rehabilitate the minor.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs.~~

~~(v) (I) The circumstances and gravity of the offense alleged in the petition to have been committed by the minor.~~

~~(II) When evaluating the criterion specified in subclause (I), the juvenile court may give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development.~~

~~A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth in subclause (I) of clauses (i) to (v), inclusive, and findings therefore recited in the order as to each of those criteria that the minor is fit and proper under each and every one of those criteria. In making a finding of fitness, the court may consider extenuating and mitigating circumstances in evaluating each of those criteria. In any case in which the hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea that may have been entered already shall constitute evidence at the hearing. If the minor is found to be a fit and proper subject to be dealt with under the juvenile court law pursuant to this subdivision, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.~~

~~(3) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.~~

(b) Subdivision ~~(c)~~ *(a)* shall be applicable in any case in which a minor is alleged to be a person described in Section 602 by reason of the violation of one of the following offenses *when he or she was 14 or 15 years of age*:

(1) Murder.

(2) Arson, as provided in subdivision (a) or (b) of Section 451 of the Penal Code.

(3) Robbery.

(4) Rape with force, violence, or threat of great bodily harm.

(5) Sodomy by force, violence, duress, menace, or threat of great bodily harm.

(6) A lewd or lascivious act as provided in subdivision (b) of Section 288 of the Penal Code.

(7) Oral copulation by force, violence, duress, menace, or threat of great bodily harm.

(8) An offense specified in subdivision (a) of Section 289 of the Penal Code.

(9) Kidnapping for ransom.

(10) Kidnapping for purposes of robbery.

(11) Kidnapping with bodily harm.

(12) Attempted murder.

(13) Assault with a firearm or destructive device.

(14) Assault by any means of force likely to produce great bodily injury.

(15) Discharge of a firearm into an inhabited or occupied building.

(16) An offense described in Section 1203.09 of the Penal Code.

(17) An offense described in Section 12022.5 or 12022.53 of the Penal Code.

(18) A felony offense in which the minor personally used a weapon described in any provision listed in Section 16590 of the Penal Code.

(19) A felony offense described in Section 136.1 or 137 of the Penal Code.

(20) Manufacturing, compounding, or selling one-half ounce or more of a salt or solution of a controlled substance specified in subdivision (e) of Section 11055 of the Health and Safety Code.

(21) A violent felony, as defined in subdivision (c) of Section 667.5 of the Penal Code, which also would constitute a felony violation of subdivision (b) of Section 186.22 of the Penal Code.

(22) Escape, by the use of force or violence, from a county juvenile hall, home, ranch, camp, or forestry camp in violation of subdivision (b) of Section 871 if great bodily injury is intentionally inflicted upon an employee of the juvenile facility during the commission of the escape.

(23) Torture as described in Sections 206 and 206.1 of the Penal Code.

(24) Aggravated mayhem, as described in Section 205 of the Penal Code.

(25) Carjacking, as described in Section 215 of the Penal Code, while armed with a dangerous or deadly weapon.

(26) Kidnapping for purposes of sexual assault, as punishable in subdivision (b) of Section 209 of the Penal Code.

(27) Kidnapping as punishable in Section 209.5 of the Penal Code.

(28) The offense described in subdivision (c) of Section 26100 of the Penal Code.

(29) The offense described in Section 18745 of the Penal Code.

(30) Voluntary manslaughter, as described in subdivision (a) of Section 192 of the Penal Code.

~~(c) With regard to a minor alleged to be a person described in Section 602 by reason of the violation, when he or she was 14 years of age or older, of any of the offenses listed in subdivision (b), upon motion of the petitioner made prior to the attachment of jeopardy the court shall cause the probation officer to investigate and submit a report on the behavioral patterns and social history of the minor being considered for a determination of unfitness. Following submission and consideration of the report, and of any other relevant evidence that the petitioner or the minor may wish to submit, the minor shall be presumed to be not a fit and proper subject to be dealt with under the juvenile court law unless the juvenile court concludes, based upon evidence, which evidence may be of extenuating or mitigating circumstances, that the minor would be amenable to the care, treatment, and training program available through the facilities of the juvenile court based upon an evaluation of each of the criteria specified in subparagraph (A) of paragraphs (1) to (5), inclusive:~~

~~(1) (A) The degree of criminal sophistication exhibited by the minor.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's age, maturity, intellectual capacity, and physical, mental, and emotional health at the time of the alleged offense, the minor's impetuosity or failure to appreciate risks and consequences of criminal behavior, the effect of familial, adult, or peer pressure on the minor's actions, and the effect of the minor's family and community environment and childhood trauma on the minor's criminal sophistication.~~

~~(2) (A) Whether the minor can be rehabilitated prior to the expiration of the juvenile court's jurisdiction.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the minor's potential to grow and mature.~~

~~(3) (A) The minor's previous delinquent history.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the seriousness of the minor's previous delinquent history and the effect of the minor's family and community environment and childhood trauma on the minor's previous delinquent behavior.~~

~~(4) (A) Success of previous attempts by the juvenile court to rehabilitate the minor.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the adequacy of the services previously provided to address the minor's needs.~~

~~(5) (A) The circumstances and gravity of the offenses alleged in the petition to have been committed by the minor.~~

~~(B) When evaluating the criterion specified in subparagraph (A), the juvenile court may give weight to any relevant factor, including, but not limited to, the actual behavior of the person, the mental state of the person, the person's degree of involvement in the crime, the level of harm actually caused by the person, and the person's mental and emotional development.~~

~~A determination that the minor is a fit and proper subject to be dealt with under the juvenile court law shall be based on a finding of amenability after consideration of the criteria set forth in subparagraph (A) of paragraphs (1) to (5), inclusive, and findings therefore recited in the order as to each of those criteria that the minor is fit and proper under each and every one of those criteria. In making a finding of fitness, the court may consider extenuating or mitigating circumstances in evaluating each of those criteria. In any case in which a hearing has been noticed pursuant to this section, the court shall postpone the taking of a plea to the petition until the conclusion of the fitness hearing and no plea which may have been entered already shall constitute evidence at the hearing. If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.~~

~~(d) (1) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing an offense enumerated in subdivision (b).~~

~~(2) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading against a minor 14 years of age or older in a court of criminal jurisdiction in any case in which any one or more of the following circumstances apply:~~

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~~(A) The minor is alleged to have committed an offense that if committed by an adult would be punishable by death or imprisonment in the state prison for life.~~

~~(B) The minor is alleged to have personally used a firearm during the commission or attempted commission of a felony, as described in Section 12022.5 or 12022.53 of the Penal Code.~~

~~(C) The minor is alleged to have committed an offense listed in subdivision (b) in which any one or more of the following circumstances apply:~~

~~(i) The minor has previously been found to be a person described in Section 602 by reason of the commission of an offense listed in subdivision (b).~~

~~(ii) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang, as defined in subdivision (f) of Section 186.22 of the Penal Code, with the specific intent to promote, further, or assist in criminal conduct by gang members.~~

~~(iii) The offense was committed for the purpose of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceives that the other person has one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.~~

~~(iv) The victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.~~

~~(3) Except as provided in subdivision (b) of Section 602, the district attorney or other appropriate prosecuting officer may file an accusatory pleading in a court of criminal jurisdiction against any minor 16 years of age or older who is accused of committing one or more of the following offenses, if the minor has previously been found to be a person described in Section 602 by reason of the violation of a felony offense, when he or she was 14 years of age or older.~~

~~(A) A felony offense in which it is alleged that the victim of the offense was 65 years of age or older, or blind, deaf, quadriplegic, paraplegic, developmentally disabled, or confined to a wheelchair, and that disability was known or reasonably should have been known to the minor at the time of the commission of the offense.~~

~~(B) A felony offense committed for the purposes of intimidating or interfering with any other person's free exercise or enjoyment of a right secured to him or her by the Constitution or laws of this state or by the Constitution or laws of the United States and because of the other person's race, color, religion, ancestry, national origin, disability, gender, or sexual orientation, or because the minor perceived that the other person had one or more of those characteristics, as described in Title 11.6 (commencing with Section 422.55) of Part 1 of the Penal Code.~~

~~(C) The offense was committed for the benefit of, at the direction of, or in association with any criminal street gang as prohibited by Section 186.22 of the Penal Code.~~

~~(4) In any case in which the district attorney or other appropriate prosecuting officer has filed an accusatory pleading against a minor in a court of criminal jurisdiction pursuant to this subdivision, the case shall then proceed according to the laws applicable to a criminal case. In conjunction with the preliminary hearing as provided in Section 738 of the Penal Code, the magistrate shall make a finding that reasonable cause exists to believe that the minor comes within this subdivision. If reasonable cause is not established, the criminal court shall transfer the case to the juvenile court having jurisdiction over the matter.~~

~~(5) For an offense for which the prosecutor may file the accusatory pleading in a court of criminal jurisdiction pursuant to this subdivision, but elects instead to file a petition in the juvenile court, if the minor is subsequently found to be a person described in subdivision (a) of Section 602, the minor shall be committed to placement in a juvenile hall, ranch camp, forestry camp, boot camp, or secure juvenile home pursuant to Section 730, or in any institution operated by the Department of Corrections and Rehabilitation, Division of Juvenile Facilities.~~

~~(6) If, pursuant to this subdivision, the minor is found to be not a fit and proper subject for juvenile court treatment and is tried in a court of criminal jurisdiction and found guilty by the trier of fact, the judge may commit the minor to the Department of Corrections and Rehabilitation, Division of Juvenile Facilities, in lieu of sentencing the minor to the state prison, unless the limitations specified in Section 1732.6 apply.~~

~~(e) A report submitted by a probation officer pursuant to this section regarding the behavioral patterns and social history of the minor being considered for a determination of unfitness shall include any written or oral statement offered by the victim, the victim's parent or guardian if the victim is a minor, or if the victim has died, the victim's next of kin, as authorized by subdivision (b) of Section 656.2. Victims' statements shall be considered by the court to the extent they are relevant to the court's determination of unfitness.~~

SEC. 5. Amendment.

This act shall be broadly construed to accomplish its purposes. The provisions of Sections 4.1 and 4.2 of this act may be amended so long as such amendments are consistent with and further the intent of this act by a statute that is passed by a majority vote of the members of each house of the Legislature and signed by the Governor.

SEC. 6. Severability.

If any provision of this act, or part of this act, or the application of any provision or part to any person or circumstances, is for any reason held to be invalid, the remaining provisions, or applications of 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. 7. Conflicting Initiatives.

(a) In the event that this act and another act addressing credits and parole eligibility for state prisoners or adult court prosecution for juvenile defendants shall appear on the same statewide ballot, the provisions of the other act or acts shall be deemed to be in conflict with this act. In the event that this act receives a greater number of affirmative votes than an act deemed to be in conflict with it, the provisions of this act shall prevail in their entirety, and the other act or acts shall be null and void.

(b) If this act is approved by voters but superseded by law by any other conflicting act approved by voters at the same election, and the conflicting ballot act is later held invalid, this act shall be self-executing and given full force and effect.

SEC. 8. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this act for the purpose of defending its constitutionality, whether such action is in any trial court, on appeal, or on discretionary review by the Supreme Court of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

SEC. 9. Liberal Construction.

This act shall be liberally construed to effectuate its purposes.

PROPOSITION 58

This law proposed by Senate Bill 1174 of the 2013–2014 Regular Session (Chapter 753, Statutes of 2014) is submitted to the people in accordance with Section 10 of Article II of the California Constitution.

This proposed law amends and repeals sections of the Education Code; therefore, 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

SECTION 1. This measure shall be known, and may be cited, as the "California Ed.G.E. Initiative" or "California Education for a Global Economy Initiative."

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SEC. 2. Section 300 of the Education Code is amended to read:

300. The ~~People~~ *people* of California find and declare as follows:

(a) Whereas, The English language is the national public language of the United States of America and of the State of California, is spoken by the vast majority of California residents, and is also the leading world language for ~~science, technology, and international business,~~ *science and technology,* thereby being ~~the~~ *an important* language of economic opportunity; and

(b) Whereas, ~~Immigrant~~*All* parents are eager to have their children ~~acquire a good knowledge of English, thereby allowing~~ *master the English language and obtain a high-quality education, thereby preparing* them to fully participate in the American Dream of economic and social advancement; and

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(c) Whereas, California is home to thousands of multinational businesses that must communicate daily with associates around the world; and

(d) Whereas, California employers across all sectors, both public and private, are actively recruiting multilingual employees because of their ability to forge stronger bonds with customers, clients, and business partners; and

(e) Whereas, Multilingual skills are necessary for our country's national security and essential to conducting diplomacy and international programs; and

(f) Whereas, California has a natural reserve of the world's largest languages, including English, Mandarin, and Spanish, which are critical to the state's economic trade and diplomatic efforts; and

(g) Whereas, California has the unique opportunity to provide all parents with the choice to have their children educated to high standards in English and one or more additional languages, including Native American languages, thereby increasing pupils' access to higher education and careers of their choice; and

~~(c)~~ *(h)* Whereas, The government and the public schools of California have a moral obligation and a constitutional duty to provide all of California's children, regardless of their ethnicity or national ~~origins,~~ *origin,* with the skills necessary to become productive members of our society, and of these skills, literacy in the English language is among the most important; and

~~(d)~~ *(i)* Whereas, The ~~public schools of California currently do a poor job of educating immigrant children, wasting financial resources on costly experimental language programs whose failure over the past two decades is demonstrated by the current high drop-out rates and low English literacy levels of many immigrant children,~~ *California Legislature approved, and the Governor signed, a historic school funding reform that restructured public education funding in a more equitable manner, directs increased resources to improve English language acquisition, and provides local control to school districts, county offices of education, and schools on how to spend funding through the local control funding formula and local control and accountability plans;* and

(j) Whereas, Parents now have the opportunity to participate in building innovative new programs that will offer pupils greater opportunities to acquire 21st century skills, such as multilingualism; and

(k) Whereas, All parents will have a choice and voice to demand the best education for their children, including access to language programs that will improve their children's preparation for college and careers, and allow them to be more competitive in a global economy; and

(l) Whereas, Existing law places constraints on teachers and schools, which have deprived many pupils of opportunities to develop multilingual skills; and

~~(e)~~ *(m)* Whereas, ~~Young immigrant children can easily acquire full fluency in a new language, such as English, if they are heavily exposed to that language in the classroom at an early age.~~ *A large body of research has demonstrated the cognitive, economic, and long-term academic benefits of multilingualism and multiliteracy.*

~~(f)~~ *(n)* Therefore, It is resolved that: *amendments to, and the repeal of, certain provisions of this chapter at the November 2016 statewide general election will advance the goal of voters to ensure that* all children in California public schools shall ~~be taught English as rapidly and effectively as possible.~~ *receive the highest quality education, master the English language, and access high-quality, innovative, and research-based language programs that provide the California Ed.G.E. (California Education for a Global Economy).*

SEC. 3. Section 305 of the Education Code is amended to read:

305. ~~Subject~~ *(a) (1)* ~~to the exceptions provided in Article 3~~ *As part of the parent and community engagement process required for the development of a local control and accountability plan pursuant to Article 4.5* (commencing with Section ~~310), all children in California public schools shall be taught English by being taught in English. In particular, this shall require that all children be placed in English language classrooms. Children who are English learners shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one year. Local schools shall be permitted to place in the same classroom English learners of different ages but whose degree of English proficiency is similar. Local schools shall be encouraged to mix together in the same classroom English learners from different native-language groups but with the same degree of English fluency. Once English learners have acquired a good working knowledge of English, they shall be transferred to English language mainstream classrooms. As much as possible, current supplemental funding for English learners shall be maintained, subject to possible modification under Article 8 (commencing with Section 335) below.~~ *52060) of Chapter 6.1 of Part 28 of Division 4 of Title 2, school districts and county offices of education shall solicit input on, and shall provide to pupils, effective and appropriate instructional methods, including, but not limited to, establishing language acquisition programs, as defined in Section 306. This requirement is intended to ensure that all pupils, including English learners and native speakers of English, have access to the core academic content standards, including the English language development standards, as applicable, and become proficient in English pursuant to the state priorities identified in paragraph (2) of subdivision (d) of Section 52060 and of Section 52066.*

(2) School districts and county offices of education shall, at a minimum, provide English learners with a structured English immersion program, as specified in Section 306, for purposes of ensuring that English learners have access to the core academic content standards, including the English language development standards, and become proficient in English pursuant to the state priorities identified in paragraph (2) of subdivision (d) of Section 52060 and of Section 52066.

(b) When a school district or a county office of education establishes a language acquisition program pursuant to this section, the school district or county office of education shall consult with the proper school personnel, including, but not limited to, administrators and certificated teachers with the appropriate authorizations and experience.

(c) School districts and county offices of education are also encouraged to provide opportunities to pupils who are native speakers of English to be instructed in another language to a degree sufficient to produce proficiency in that language. The non-English language should be at the discretion of the parents, community, and school, depending upon the linguistic and financial resources of the school community and other local considerations.

(d) A language acquisition program established pursuant to this section shall comply with the requirements of Section 310.

SEC. 4. Section 306 of the Education Code is amended to read:

306. The definitions of the terms used in this article and in Article ~~3~~ *1* (commencing with Section ~~310)~~ *300)* are as follows:

(a) "English learner" means a ~~child who does not speak English or whose native language is not English and who is not currently able to perform ordinary classroom work in English, also known as a Limited English Proficiency or LEP child.~~ *pupil who is "limited English proficient" as that term is defined in the federal No Child Left Behind Act of 2001 (20 U.S.C. 7801(25)).*

(b) ~~"English language classroom" means a classroom in which the language of instruction used by the teaching personnel is overwhelmingly the English language, and in which such teaching personnel possess a good knowledge of the English language.~~ *"Native speaker of English" means a pupil who has learned and used English in his or her home from early childhood and English has been his or her primary means of concept formation and communication.*

(c) ~~"English language mainstream classroom" means a classroom in which the pupils either are native English language speakers or already have acquired reasonable fluency in English.~~ *"Language acquisition programs" refers to educational programs designed to ensure English acquisition as rapidly and as effectively as possible, and that provide instruction to pupils on the state-adopted academic content standards, including the English language development standards. The language acquisition programs provided to pupils shall be informed by research and shall lead to grade level proficiency and academic achievement in both English and another language. Language acquisition programs may include, but are not limited to, all of the following:*

(1) Dual-language immersion programs that provide integrated language learning and academic instruction for native speakers of English and native speakers of another language, with the goals of high academic achievement, first and second language proficiency, and cross-cultural understanding.

(2) Transitional or developmental programs for English learners that provide instruction to pupils that utilizes English and a pupil's native language for literacy and academic instruction and enables an English learner to achieve English proficiency and academic mastery of subject matter content and higher order skills, including critical thinking, in order to meet state-adopted academic content standards.

~~(d)~~ *(3)* ~~"Sheltered English immersion" or "structured English immersion" means an English language acquisition process for young children~~ *Structured English immersion programs for English learners* in which nearly all classroom instruction is *provided* in ~~English~~ *English*, but with ~~the~~ curriculum and *a* presentation designed for ~~children~~ *pupils* who are learning ~~the language.~~ *English.*

~~(e) "Bilingual education/native language instruction" means a language acquisition process for pupils in which much or all instruction, textbooks, and teaching materials are in the child's native language.~~

SEC. 5. Section 310 of the Education Code is amended to read:

310. ~~The~~ *(a)* ~~requirements of Section 305 may be waived with the prior written informed consent, to be provided annually, of the child's~~ *Parents or legal guardians of pupils enrolled in the school may choose a language acquisition program that best suits their child pursuant to this section. Schools in which the* parents or legal ~~guardian under the circumstances specified below and in Section 311. Such informed consent shall require that said~~ *guardians of 30*

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pupils or more per school or the parents or legal ~~guardian personally visit the school to apply for the waiver and that they there be provided a full description of the educational materials to be used in the different educational program choices and all the educational opportunities available to the child. Under such parental waiver conditions, children may be transferred to classes where they are taught English and other subjects through bilingual education techniques or other generally recognized educational methodologies permitted by law. Individual schools in which~~ *guardians of* 20 pupils or more ~~of a given grade level receive a waiver~~ *in any grade request a language acquisition program that is designed to provide language instruction* shall be required to offer such a ~~class, otherwise, they must allow the pupils to transfer to a public school in which such a class is offered.~~ *program to the extent possible, based upon the requirements of Section 305.*

(b) If a school district implements a language acquisition program pursuant to this section, it shall do both of the following:

(1) Comply with the kindergarten and grades 1 to 3, inclusive, class size requirements specified in Section 42238.02.

(2) Provide, as part of the annual parent notice required pursuant to Section 48980 or upon enrollment, the parent or legal guardian of a minor pupil with information on the types of language programs available to pupils enrolled in the school district, including, but not limited to, a description of each program.

SEC. 6. Section 311 of the Education Code is repealed.

~~311. The circumstances in which a parental exception waiver may be granted under Section 310 are as follows:~~

~~(a) Children who already know English: the child already possesses good English language skills, as measured by standardized tests of English vocabulary comprehension, reading, and writing, in which the child scores at or above the state average for his or her grade level or at or above the 5th grade average, whichever is lower; or~~

~~(b) Older children: the child is age 10 years or older, and it is the informed belief of the school principal and educational staff that an alternate course of educational study would be better suited to the child's rapid acquisition of basic English language skills; or~~

~~(c) Children with special needs: the child already has been placed for a period of not less than thirty days during that school year in an English language classroom and it is subsequently the informed belief of the school principal and educational staff that the child has such special physical, emotional, psychological, or educational needs that an alternate course of educational study would be better suited to the child's overall educational development. A written description of these special needs must be provided and any such decision is to be made subject to the examination and approval of the local school superintendent, under guidelines established by and subject to the review of the local Board of Education and ultimately the State Board of Education. The existence of such special needs shall not compel issuance of a waiver, and the parents shall be fully informed of their right to refuse to agree to a waiver.~~

SEC. 7. Section 320 of the Education Code is amended to read:

320. As detailed in ~~Article~~ *Section 5 of Article IX of the California Constitution, and Article* 2 (commencing with Section 305) and Article 3 (commencing with Section 310), *respectively,* all California school children have the right to be provided with ~~an English language public education. If a California school child has been denied the option of an English language instructional curriculum in public school, the child's parent or legal guardian shall have legal standing to sue for enforcement of the provisions of this statute, and if successful shall be awarded normal and customary attorney's fees and actual damages, but not punitive or consequential damages. Any school board member or other elected official or public school teacher or administrator who willfully and repeatedly refuses to implement the terms of this statute by providing such~~ *a free public education and* an English language ~~educational option at an available public school to a California school child may be held personally liable for fees and actual damages by the child's parents or legal guardian.~~ *public education.*

SEC. 8. Section 335 of the Education Code is amended to read:

335. The provisions of this act may be amended by a statute that becomes effective upon approval by the electorate or by a statute ~~to further the act's purpose~~ passed by a ~~two-thirds~~ *majority* vote of each house of the Legislature and signed by the Governor.

SEC. 9. Sections 2 to 8, inclusive, of this act shall become operative on July 1, 2017.

PROPOSITION 59

The following advisory question is submitted to the people in accordance with Section 4 of Senate Bill 254 of the 2015–16 Regular Session (Chapter 20, Statutes of 2016).

Advisory Question: "Shall California's elected officials use all of their constitutional authority, including, but not limited to, proposing and ratifying one or more amendments to the United States Constitution, to overturn Citizens United v. Federal Election Commission (2010) 558 U.S. 310, and other applicable judicial precedents, to allow the full regulation or limitation of campaign contributions and spending, to ensure that all citizens, regardless of wealth, may express their views to one another, and to make clear that corporations should not have the same constitutional rights as human beings?"

PROPOSITION 60

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 Labor Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The California Safer Sex in the Adult Film Industry Act

The people of the State of California do hereby ordain as follows:

SECTION 1. Title.

This Act shall be known and may be cited as "The California Safer Sex in the Adult Film Industry Act" (the "Act").

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

(a) Widespread transmission of sexually transmitted infections associated with making adult films in California has been documented by one or more county departments of public health. All workers in the adult film industry deserve to go to work and not become ill. It is important that safer sex practices in the making of adult films, and in particular the use of condoms by performers, be required so as to limit the spread of HIV/AIDS and other sexually transmitted infections in the adult film industry. Not only is the risk of HIV/AIDS and other sexually transmitted infections among adult film performers of immediate public concern, but so is the risk of transmitting HIV/AIDS and other sexually transmitted infections between adult film performers and the broader population.

(b) The adult film industry places profits above worker safety and actively prevents and discourages the use of certain essential safer sex methods. Costs of vaccinations, testing, and medical monitoring relative to HIV/AIDS and other sexually transmitted infections are currently unfairly borne by adult film performers, while adult film producers avoid bearing these costs and responsibilities. This Act is necessary and appropriate to address these public concerns.

SEC. 3. Purposes and Intent.

The people of the State of California hereby declare the following purposes and intent in enacting this Act:

(a) To protect performers in the adult film industry and minimize the spread of sexually transmitted infections resulting from the making of adult films in California, thus reducing the negative impact on people's health and improving Californians' quality of life.

(b) To require producers of adult films to comply with the law by requiring, among other things, that performers are protected by condoms from sexually transmitted infections.

(c) To authorize and require the California Division of Occupational Safety and Health (Cal/OSHA) and the California Occupational Safety and Health Standards Board to take appropriate measures to enforce the Act.

(d) To require the costs of certain vaccinations, testing, and medical monitoring relative to HIV/AIDS and other sexually transmitted infections to be paid by adult film producers and to give adult film performers a private right of action to recover civil damages for economic or personal injury caused by adult film producers' failure to comply with the health and safety requirements of this Act.

(e) To hold liable all individuals and entities with a financial interest in the making or distribution of adult films who violate this Act.

(f) To require adult film producers to provide notice of filming, to maintain certain records regarding filming, to post a notice regarding the required use of condoms for specified scenes, and to fulfill additional health requirements.

(g) To discourage noncompliance and encourage compliance with the requirements of this Act by requiring adult film producers to be licensed.

(h) To extend the time in which the State of California may pursue violators of the Act.

(i) To enable whistleblowers and private citizens to pursue violators of the Act where the state fails to do so.

(j) To prohibit talent agents from knowingly referring adult film performers to locations where condoms will not be used in the making of adult films.

(k) To provide for the Act's proper legal defense should it be adopted and thereafter challenged in court.

SEC. 4. The California Safer Sex in the Adult Film Industry Act shall be codified by adding Sections 6720 to 6720.8, inclusive, to the Labor Code.

SEC. 4.1. Section 6720 is added to the Labor Code, to read:

6720. Health and Employment Requirements: Adult Film Industry.

(a) An adult film producer shall maintain engineering controls and work practice controls sufficient to protect adult film performers from exposure to blood and any other potentially infectious material-sexually transmitted infections ("OPIM-STI"). Engineering controls and work practice controls shall include:

(1) Provision of and required use of condoms during the filming of adult films.

(2) Provision of condom-safe water-based or silicone-based lubricants to facilitate the use of condoms.

(3) Any other reasonable STI prevention engineering controls and work practice controls as required by regulations adopted by the board through the administrative rulemaking process, so long as such engineering controls and work practice controls are reasonably germane to the purposes and intent of Sections 6720 to 6720.8, inclusive.

(b) The costs of all STI prevention vaccinations, all STI tests, and all medical follow-up required in order for an individual to be an adult film performer, shall be borne by the adult film producer and not by the adult film performer.

(c) Adult film producers shall maintain as strictly confidential, as required by law, any adult film performer's health information acquired by any means.

(d) An adult film producer's failure to offer, provide, and pay for a STI prevention vaccine, STI test, or medical examination, as required in order to be an adult film performer, if such vaccine, test, or examination is consented to by the adult film performer, shall result in a penalty against the adult film producer, payable to the State of California, equal to the cost of each STI prevention vaccine, each STI test, and each medical examination that the adult film producer failed to offer, provide, or pay for on behalf of the adult film performer.

(e) Any adult film performer may seek and be awarded, in addition to any other remedies or damages allowed by law, a civil damages award of up to fifty thousand dollars ($50,000), subject to yearly consumer price index increases, if the trier of fact: (1) finds that the adult film performer has suffered economic or personal injury as a result of the adult film producer's failure to comply with subdivisions (a), (b), or (c); (2) makes an affirmative finding that the adult film producer's failure to comply was negligent, reckless, or intentional; and (3) finds that an award is appropriate. The court shall award costs and attorney's fees to a prevailing plaintiff in litigation filed pursuant to this subdivision or subdivision (f). Reasonable attorney's fees may be awarded to a prevailing defendant upon a finding by the court that the plaintiff's prosecution of the action was not in good faith. In the event that an adult film performer's damages for economic or personal injury are covered by the adult film producer's workers' compensation insurance, this subdivision shall not apply.

(f) Any adult film performer entitled to bring an action under subdivision (e) shall be entitled to bring such an

action on behalf of all similarly situated adult film performers, subject to class certification by a court.

(g) By January 1, 2018, the board shall adopt regulations to implement and effectuate the provisions and purposes of Sections 6720 to 6720.8, inclusive, in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(h) This section shall not be construed to require condoms, barriers, or other personal protective equipment to be visible in the final product of an adult film. However, there shall be a rebuttable presumption that any adult film without visible condoms that is distributed for commercial purposes in the State of California by any means was produced in violation of this section.

(i) Liability under Sections 6720 to 6720.8, inclusive, shall not apply to adult film performers, bona fide employees, individuals providing independent contracting services, or production volunteers of an adult film producer who are acting within the scope of the general services being provided and in accordance with the instruction of the adult film producer, provided that such individuals have no financial interest in the adult film and are not adult film producers. Such individuals shall not be considered agents of the adult film producer for purposes of Sections 6720 to 6720.8, inclusive.

(j) Nothing in Sections 6720 to 6720.8, inclusive, shall prevent a state agency, such as the division or board, from promulgating regulations governing the making, producing, financing, and distributing of adult films, so long as such regulations enhance workplace safety protections and rights for adult film performers and do not weaken the requirements of Sections 6720 to 6720.8, inclusive.

(k) In the event the amount of any monetary penalty set forth in Sections 6720 to 6720.8, inclusive, is found invalid by a court of law, the division is empowered to and shall develop, and the board is empowered to and shall adopt, monetary penalties via the administrative rulemaking process in a reasonable amount sufficient to deter noncompliance and encourage compliance with the requirements of the provisions in which the penalties are found to be invalid.

SEC. 4.2. Section 6720.1 is added to the Labor Code, to read:

6720.1. Notice & Disclosure.

(a) Within 10 days after the beginning of filming, an adult film producer must disclose to the division, in writing, signed under penalty of perjury by the adult film producer, the following information:

(1) The address or addresses at which the filming took, is taking, or will take place, with any changes in location to be disclosed to the division within 72 hours after such changes occur.

(2) The date or dates on which the filming took, is taking, or will take place, with any changes to the filming date or dates to be disclosed to the division within 72 hours after such changes occur.

(3) The name and contact information of the adult film producer.

(4) The name and contact information of the designated custodian of records as required by subdivision (h).

(5) The name and contact information of any talent agency that referred any adult film performer to the adult film producer.

(6) A certification signed by the adult film producer, under penalty of perjury, that:

(A) Condoms will be used or have been used at all times during the filming of acts of vaginal or anal intercourse;

(B) All STI testing, STI prevention vaccinations, and medical examinations, as required in order for an individual to be an adult film performer, have been offered to the individual prior to the beginning of filming at no charge to the individual; and

(C) The costs of all administered STI testing, STI prevention vaccination, and medical examinations have been paid by the adult film producer.

(7) Any other documentation or information that the division or board may require to assure compliance with the provisions of Sections 6720 to 6720.8, inclusive.

(b) Upon submitting the information required by this section, the adult film producer must pay a fee set by the division or board in an amount sufficient for data security, data storage, and other administrative expenses associated with receiving, processing, and maintaining all information submitted under this section. Until the division or board sets the fee, the fee shall be one hundred dollars ($100). The fees collected pursuant to this subdivision shall not be used to cover the costs of enforcing Sections 6720 to 6720.8, inclusive.

(c) Where an adult film has two or more adult film producers, one of the adult film producers may transmit the information required to be disclosed by subdivision (a) on behalf of all of the adult film's adult film producers.

(d) An adult film producer's failure to timely disclose to the division the information required by this section, or to comply with the subdivision (f) training program requirement, the subdivision (g) signage requirement, or the subdivision (h) recordkeeping requirement, shall be punishable by a penalty of no less than one thousand dollars ($1,000) and no more than seven thousand dollars ($7,000) per violation, as determined via the administrative enforcement process or a civil action. Each repeat violation shall be punishable by a penalty of no less than seven thousand dollars ($7,000) and no more than fifteen thousand dollars ($15,000), as determined via the administrative enforcement process or a civil action. The failure to provide any individual piece of information required by subdivision (a) constitutes a separate violation.

(e) An adult film producer who knowingly makes any false statement, representation, or certification in complying with subdivision (a) shall be assessed a penalty of not more than seventy thousand dollars ($70,000) as determined via the administrative enforcement process or a civil action.

(f) An adult film producer shall provide a training program to each adult film performer and employee as required by regulations adopted by the board in accordance with the administrative rulemaking process.

(g) A legible sign shall be displayed at all times at the location where an adult film is filmed in a conventional typeface not smaller than 48-point font, that provides the following notice so as to be clearly visible to all adult film performers in said adult films:

The State of California requires the use of condoms for all acts of vaginal or anal intercourse during the production of adult films to protect performers from sexually transmitted infections and diseases.

Any public health concerns regarding any activities occurring during the production of any adult films should be directed to:

_____.

The division or the board shall determine, and shall make available to the public and to all adult film producers, the language to be inserted directly above the blank line on the sign required by this subdivision, and all adult film producers shall comply with such determination by inserting such language directly above the blank line on the sign.

(h) An adult film producer shall designate a custodian of records for purposes of Sections 6720 to 6720.8, inclusive. For a period of not less than four years, the custodian of records shall maintain:

(1) A copy of each original and unedited adult film made, produced, financed, or directed by the adult film producer.

(2) A copy of the information required to be disclosed by subdivision (a).

(3) Proof that the adult film producer provided a training program to each adult film performer and employee pursuant to subdivision (f).

(4) Proof that a legible sign was displayed at the locations where the adult film was filmed pursuant to subdivision (f).

(i) By January 1, 2018, the division or board shall adopt regulations to implement and effectuate this section and Section 6720.2 in accordance with the rulemaking provisions of 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. 4.3. Section 6720.2 is added to the Labor Code, to read:

6720.2. Adult Film Producers: License.

(a) Within 10 days after the beginning of filming of an adult film, the adult film's adult film producer shall pay the required application fee, submit a required application to the division, and obtain a license. An adult film producer with a license that is in effect at the beginning of filming an adult film shall not be required to submit a new license application and fee. The application fee shall be set by the division via administrative rulemaking, in an amount sufficient to provide for the cost of the administration of this section. Until the division sets the fee, the fee shall be one hundred dollars ($100). The fees collected pursuant to this subdivision shall not be used to cover the costs of enforcing Sections 6720 to 6720.8, inclusive.

(b) A license shall be effective immediately upon the division's receipt of the application and fee so long as the application and fee are transmitted to the division within 10 days after the beginning of filming. In addition, the license shall be effective retroactively by 10 days or shall be effective on the day of beginning of filming, whichever is earlier.

(c) Issuance of a license shall be a ministerial task to be performed by the division. Suspension of a license shall only be permitted upon a stipulation by an adult film producer or upon a proper showing before a presiding officer, to be selected by the division to conduct the hearing, that the licensee has been found, via the administrative enforcement process or a civil action, to have violated subdivision (a) of Section 6720.

(d) For any adult film producer who is not an individual, no license shall be effective unless all owners and managing agents of such adult film producer obtain a license.

(e) A license shall be effective for two years, unless suspended by the division. Following the last day of the suspension period, the division shall inform the suspended licensee of license reinstatement.

(f) Licensing requirements:

(1) Each applicant and licensee must not have been found, through the administrative enforcement process or by a court, to have violated any of the requirements of subdivision (a) of Section 6720 for the 12 months preceding the filing of an application with the division or the duration of the adult film producer's suspension, whichever is less. All persons shall be considered in compliance with Sections 6720 to 6720.8, inclusive, as of the effective date of Sections 6720 to 6720.8, inclusive.

(g) Whenever the division determines that a licensee has failed to comply with the requirements of subdivision (a) of Section 6720, the division shall issue a written notice to the licensee. The notice shall include a statement of deficiencies found, shall set forth corrective measures, if any, necessary for the licensee to be in compliance with subdivision (a) of Section 6720, and shall inform the licensee that penalties or license suspension may result.

(h) A written request for administrative review, or for a continuance if good cause is shown, must be made by the noticed licensee within 15 calendar days of the issuance of the notice to comply, or else such review or continuance are waived.

(i) Within 10 days after the administrative review or waiver, excluding weekends and holidays, the division shall issue a written notice of decision to the licensee, specifying any penalties imposed on the licensee. For licenses that have been suspended, the notice of decision shall specify the acts or omissions found to be in violation of Sections 6720 to 6720.8, inclusive, and, in the case of a suspended license, shall state the length and extent of the suspension. The notice of decision shall also state the terms, if any, upon which the license may be reinstated or reissued.

(j) A license issued pursuant to Sections 6720 to 6720.8, inclusive, may be reinstated if the division determines that the conditions which prompted the suspension no longer exist and any penalties imposed pursuant to Sections 6720 to 6720.8, inclusive, have been satisfied. In no event shall this section be construed as limiting a licensee's right to seek mandamus or to appeal an adverse license decision.

(k) Performing the functions of an adult film producer without a license shall result in a fine of up to fifty dollars ($50) per day for any adult film producer who has previously been found to have violated subdivision (a) of Section 6720. Any adult film producer who fails to register as an adult film producer within 10 days after qualifying as an adult film producer shall be liable for a fine of up to twenty-five dollars ($25) per day for performing the functions of an adult film producer without a license.

SEC. 4.4. Section 6720.3 is added to the Labor Code, to read:

6720.3. Statute of Limitations.

(a) Notwithstanding Section 6317, in an action to prosecute any alleged violators of Sections 6720 to 6720.8, inclusive, or any adult film regulations now or hereafter adopted, the time for commencement of action shall be the later of the following:

(1) One year after the date of the violation.

(2) One year after the violation is discovered, or through the use of reasonable diligence, should have been discovered.

SEC. 4.5. Section 6720.4 is added to the Labor Code, to read:

6720.4. Liability and Penalties.

(a) Notwithstanding any contrary provisions in Sections 6423 to 6436, inclusive, every adult film producer, or any person in an agency relationship with an adult film producer, who does any of the following shall, in an administrative or civil action, be assessed a penalty as defined in subdivision (b):

(1) Negligently violates any provision of subdivision (a), (b), or (c) of Section 6720;

(2) Knowingly or repeatedly violates any provision of subdivision (a), (b), or (c) of Section 6720;

(3) Fails or refuses to comply with, after notification and expiration of any abatement period, any provision of subdivision (a), (b), or (c) of Section 6720; or

(4) Aids and abets another to commit any of the acts in paragraph (1), (2), or (3) of subdivision (a).

(b) Any violation of paragraph (1) of subdivision (a) is punishable by a penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000); any violation of paragraph (2) or (3) of subdivision (a) is punishable by a penalty of not less than five thousand dollars ($5,000) nor more than seventy thousand dollars ($70,000); and any violation of paragraph (4) of subdivision (a) is punishable by a penalty of not less than one thousand dollars ($1,000) nor more than thirty-five thousand dollars ($35,000).

(c) Notwithstanding any contrary provisions in Sections 6423 to 6436, inclusive, any adult film producer who willfully violates subdivision (a) of Section 6720, the violation of which causes death, or permanent or prolonged bodily impairment, to the adult film performer, is punishable by a fine of not more than one hundred thousand dollars ($100,000) via the administrative enforcement process or a civil action. If the adult film producer is a limited liability company or a corporation, the fine may not exceed one million five hundred thousand dollars ($1,500,000).

SEC. 4.6. Section 6720.5 is added to the Labor Code, to read:

6720.5. Agents of Control; Aiding and Abetting; Multiple Violations.

(a) Every person who possesses, through purchase for commercial consideration, any rights in one or more adult films filmed in California in violation of subdivision (a) of Section 6720 and who knowingly or recklessly sends or causes to be sent, or brings or causes to be brought, into or within California, for sale or distribution, one or more adult films filmed in California in violation of subdivision (a) of Section 6720, with intent to distribute, or who offers to distribute, or does distribute, such films for commercial purposes, shall be assessed a penalty of the greater of:

(1) Not less than one-half times, but not more than one-and-one-half times, the total amount of commercial consideration exchanged for any rights in the adult films.

(2) Not less than one-half times, but not more than one-and-one-half times, the total cost of producing the adult films.

(b) Any person found to have aided and abetted any other person or persons in violating subdivision (a) shall be found liable for violating subdivision (a).

(c) Any person found liable for violating subdivision (a) who has previously been found liable for violating subdivision (a) shall be assessed a penalty of the greater of:

(1) Not less than two times, but not more than three times, the amount of commercial consideration exchanged for any rights in the adult film.

(2) Not less than two times, but not more than three times, the total cost of producing the adult film.

(d) Any person found liable for violating subdivision (a) who has been found liable two or more times for violating subdivision (a) shall be assessed a penalty of the greater of:

(1) Not less than three times, but not more than four times, the amount of commercial consideration exchanged for any rights in the adult film.

(2) Not less than three times, but not more than four times, the total cost of producing the adult film.

(e) Sections 6720 to 6720.8, inclusive, shall not apply to legitimate medical, educational, and scientific activities, to telecommunication companies that transmit or carry adult films, to criminal law enforcement and prosecuting agencies in the investigation and prosecution of criminal offenses, and to any film rated by the Motion Picture Association of America unless such film is an adult film.

SEC. 4.7. Section 6720.6 is added to the Labor Code, to read:

6720.6. Enforcement; Whistleblowers; Private Rights of Action.

(a) Any person who violates any provision of Sections 6720 to 6720.8, inclusive, shall be liable via the administrative enforcement process, or via a civil action brought by the division or its designee, a civil prosecutor, an adult film performer aggrieved by a violation of Section 6720, or an individual residing in the State of California. Any adult film performer or individual, before filing a civil action pursuant to this subdivision, must file with the division a written request for the division to pursue the alleged violator or violators via the administrative enforcement process or via commencement of a civil action. The request shall include a statement of the grounds for believing that Sections 6720 to 6720.8, inclusive, have been violated. The division shall respond to the individual in writing, indicating whether it intends to pursue an administrative or civil action, or take no action. If the division, within 21 days of receiving the request, responds that it is going to pursue the alleged violator or violators via the administrative enforcement process or a civil action, and initiates enforcement proceedings or files a civil action within 45 days of receiving the request, no other action may be brought unless the division's action is abandoned or dismissed without prejudice. If the division, within 21 days of receiving the request, responds in the

negative, or fails to respond, the person requesting the action may file a civil action.

(b) The time period within which a civil action shall be commenced shall be tolled from the date of the division's receipt of the request to either the date the civil action is dismissed without prejudice or the administrative enforcement action is abandoned, whichever is later, but only for a civil action brought by the individual who filed the request.

(c) No civil action may be filed under this section with regard to any person for any violations of Sections 6720 to 6720.8, inclusive, after the division has issued an order consistent with Sections 6720 to 6720.8, inclusive, or collected a penalty against that person for the same violation. Although Sections 6720 to 6720.8, inclusive, impose no criminal liability, no civil action alleging a violation of Sections 6720 to 6720.8, inclusive, may be filed against a person pursuant to this section if a criminal prosecutor is maintaining a criminal action against that person regarding the same transaction or occurrence. Not more than one judgment on the merits with respect to any particular violation of Sections 6720 to 6720.8, inclusive, may be obtained under this section against any person. The court may dismiss a pending action, without prejudice to any other action, for failure of the plaintiff to proceed diligently or in good faith.

(d) If judgment is entered against one or more defendants in an action brought under this section, penalties recovered by the plaintiff shall be distributed as follows: 75 percent to the State of California and 25 percent to the plaintiff. The court shall award to a plaintiff or defendant other than a governmental agency who prevails in any action authorized by Sections 6720 to 6720.8, inclusive, and brought pursuant to this section the costs of litigation, including reasonable attorney's fees. However, in order for a defendant to recover attorney's fees from a plaintiff, the court must first find that the plaintiff's pursuit of the litigation was frivolous or in bad faith.

SEC. 4.8. Section 6720.7 is added to the Labor Code, to read:

6720.7. Talent Agency Liability.

(a) It shall be unlawful for any talent agency, as that term is defined in subdivision (a) of Section 1700.4, to knowingly refer, for monetary consideration, any adult film performer to any producer, or agent of the producer, including, but not limited to, casting directors, of adult films who are not in compliance with subdivision (a) of Section 6720. Any talent agency found liable for violating this subdivision shall be liable to the adult film performer for the amount of the monetary consideration received by the talent agency as a result of the referral made in violation of this section and for reasonable attorney's fees associated with successfully pursuing the talent agency for liability for violating this subdivision.

(b) Any talent agency that obtains written confirmation prior to the beginning of filming, signed under penalty of perjury by the adult film producer, that the adult film producer is in compliance with, and will continue to comply with, all requirements of subdivision (a) of Section 6720 shall not be liable for violating this section.

(c) Violation of this section may be grounds for suspension or revocation of the violator's talent agency license. The Division of Occupational Safety and Health and the Division of Labor Standards Enforcement shall maintain concurrent jurisdiction over the enforcement of this section.

(d) Upon the finding of liability for violations of subdivision (a) of Section 6720, the division shall transmit the information in paragraph (5) of subdivision (a) of Section 6720.1 to the Department of Industrial Relations, Division of Labor Standards Enforcement, or any successor agency.

SEC. 4.9. Section 6720.8 is added to the Labor Code, to read:

6720.8. Definitions.

For purposes of Sections 6720 to 6720.8, inclusive, the following definitions shall apply:

(a) "Adult film" means any recorded, streamed, or real-time broadcast of any film, video, multimedia, or other representation of sexual intercourse in which performers actually engage in vaginal or anal penetration by a penis.

(b) "Adult film performer" means any individual whose penis penetrates a vagina or anus while being filmed, or whose vagina or anus is penetrated by a penis while being filmed.

(c) "Adult film producer" means any person that makes, produces, finances, or directs one or more adult films filmed in California and that sells, offers to sell, or causes to be sold such adult film in exchange for commercial consideration.

(d) "Adult film regulations" means all regulations adopted by the board in accordance with the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) that are reasonably germane to the purposes and intent of Sections 6720 to 6720.8, inclusive.

(e) "Aided and abetted" or "aids and abets" means knowingly or recklessly giving substantial assistance to a person.

(f) "Beginning of filming" means the point at which an adult film begins to be recorded, streamed, or real-time broadcast.

(g) "Board" means the Occupational Safety and Health Standards Board.

(h) "Commercial consideration" means anything of value, including but not limited to, real or digital currency, or contingent or vested rights in any current or future revenue.

(i) "Commercial purposes" means to sell, offer to sell, or cause to be sold, in exchange for commercial consideration.

(j) "Distribute" or "distributed" means to transfer possession of in exchange for commercial consideration.

(k) "Division" means the Division of Occupational Safety and Health.

(l) "Filmed" and "filming" means the recording, streaming, or real-time broadcast of any adult film.

(m) "License" means Adult Film Producer Health License.

(n) "Licensee" means any person holding a valid Adult Film Producer Health License.

(o) "Other potentially infectious material-sexually transmitted infections" or "OPIM-STI" means bodily fluids and other substances that may contain and transmit sexually transmitted pathogens.

(p) "Person" means any individual, partnership, firm, association, corporation, limited liability company, or other legal entity.

(q) "Sexually Transmitted Infection" or "STI" means any infection or disease spread by sexual intercourse, including, but not limited to, HIV/AIDS, gonorrhea, syphilis, chlamydia, hepatitis, trichomoniasis, genital human papillomavirus infection (HPV), and genital herpes.

SEC. 5. Liberal Construction.

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 its purposes.

SEC. 6. Conflicting Measures.

This Act is intended to be comprehensive. It is the intent of the people of the State of California that in the event this Act and one or more measures relating to the same subject shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

SEC. 7. Proponent Accountability.

The people of the State of California hereby declare that the proponent of this Act should be held civilly liable in the event this Act is struck down, after passage, in whole or in part, by a court for being constitutionally or statutorily impermissible. Such a constitutionally or statutorily impermissible initiative is a misuse of taxpayer funds and electoral resources and the Act's proponent, as the drafter of the Act, must be held accountable for such an occurrence.

In the event this Act, after passage, is struck down in court, in whole or in part, as unconstitutional or statutorily invalid, and all avenues for appealing and overturning the court decision have been exhausted, the proponent shall pay a civil penalty of $10,000 to the General Fund of the State of California for failure to draft a wholly constitutionally or statutorily permissible initiative law. No party or entity may waive this civil penalty.

SEC. 8. Amendment and Repeal.

This Act may be amended to further its purposes by statute passed by a two-thirds (2/3) vote of the Legislature and signed by the Governor.

SEC. 9. Severablility.

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. The voters hereby declare that this Act, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

SEC. 10. Legal Defense.

The people of the State of California desire that the Act, if approved by the voters, and thereafter challenged in court, be defended by the State of California. The people of the State of California, by enacting this Act, hereby declare that the proponent of this Act has a direct and personal stake in defending this Act from constitutional or statutory challenges to the Act's validity. In the event the Attorney General fails to defend this Act; or the Attorney General fails to appeal an adverse judgment against the constitutionality or statutory permissibility of this Act, in whole or in part, in any court, the Act's proponent shall be entitled to assert his direct and personal stake by defending the Act's validity in any court and shall be empowered by the citizens through this Act to act as an agent of the citizens of the State of California subject to the following conditions: (1) the proponent shall not be considered an "at-will" employee of the State of California, but the Legislature shall have the authority to remove the proponent from his agency role by a majority vote of each house of the Legislature when "good cause" exists to do so, as that term is defined by California case law; (2) the proponent shall take the Oath of Office under Section 3 of Article XX of the California Constitution, as an employee of the State of California; (3) the proponent shall be subject to all fiduciary, ethical, and legal duties prescribed by law; and (4) the proponent shall be indemnified by the State of California for only reasonable expenses and other losses incurred by the proponent, as agent, in defending the validity of the challenged Act. The rate of indemnification shall be no more than the amount it would cost the State to perform the defense itself.

SEC. 11. Effective Date.

Except as otherwise provided herein, this Act shall become effective the day after its approval by the voters.

PROPOSITION 61

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 a section to the Welfare and Institutions Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

The California Drug Price Relief Act

The people of the State of California do hereby ordain as follows:

SECTION 1. Title.

This Act shall be known, and may be cited, as "The California Drug Price Relief Act" (the "Act").

SEC. 2. Findings and Declarations.

The people of the State of California hereby find and declare all of the following:

(a) Prescription drug costs have been, and continue to be, one of the greatest drivers of rising health care costs in California.

(b) Nationally, prescription drug spending increased more than 800 percent between 1990 and 2013, making it one of the fastest growing segments of health care.

(c) Spending on specialty medications, such as those used to treat HIV/AIDS, Hepatitis C, and cancer, are rising faster than other types of medications. In 2014 alone, total spending on specialty medications increased by more than 23 percent.

(d) The pharmaceutical industry's practice of charging inflated drug prices has resulted in pharmaceutical

company profits exceeding those of even the oil and investment banking industries.

(e) Inflated drug pricing has led to drug companies lavishing excessive pay on their executives.

(f) Excessively priced drugs continue to be an unnecessary burden on California taxpayers that ultimately results in cuts to health care services and providers for people in need.

(g) Although California has engaged in efforts to reduce prescription drug costs through rebates, drug manufacturers are still able to charge the state more than other government payers for the same medications, resulting in a dramatic imbalance that must be rectified.

(h) If California is able to pay the same prices for prescription drugs as the amounts paid by the United States Department of Veterans Affairs, it would result in significant savings to California and its taxpayers. This Act is necessary and appropriate to address these public concerns.

SEC. 3. Purposes and Intent.

The people of the State of California hereby declare the following purposes and intent in enacting this Act:

(a) To enable the State of California to pay the same prices for prescription drugs as the prices paid by the United States Department of Veterans Affairs, thus rectifying the imbalance among government payers.

(b) To enable significant cost savings to California and its taxpayers for prescription drugs, thus helping to stem the tide of rising health care costs in California.

(c) To provide for the Act's proper legal defense should it be adopted and thereafter challenged in court.

SEC. 4. The California Drug Price Relief Act shall be codified by adding Section 14105.32 to the Welfare and Institutions Code, to read:

14105.32. Drug Pricing.

(a) Notwithstanding any other provision of law and insofar as may be permissible under federal law, neither the State of California, nor any state administrative agency or other state entity, including, but not limited to, the State Department of Health Care Services, shall enter into any agreement with the manufacturer of any drug for the purchase of a prescribed drug unless the net cost of the drug, inclusive of cash discounts, free goods, volume discounts, rebates, or any other discounts or credits, as determined by the State Department of Health Care Services, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs.

(b) The price ceiling described in subdivision (a) also shall apply to all programs where the State of California or any state administrative agency or other state entity is the ultimate payer for the drug, even if it did not purchase the drug directly. This includes, but is not limited to, California's Medi-Cal fee-for-service outpatient drug program and California's AIDS Drug Assistance Program. In addition to agreements for any cash discounts, free goods, volume discounts, rebates, or any other discounts or credits already in place for these programs, the responsible state agency shall enter into additional agreements with drug manufacturers for further price reductions so that the net cost of the drug, as determined by the State Department of Health Care Services, is the same as or less than the lowest price paid for the same drug by the United States Department of Veterans Affairs. The requirements of this section shall not be applicable to drugs purchased or procured, or rates developed, pursuant to or under any Medi-Cal managed care program.

(c) It is the intent of the people of the State of California that the State of California, and all state agencies and other state entities that enter into one or more agreements with the manufacturer of any drug for the purchase of prescribed drugs, shall implement this section in a timely manner, and to that end the State of California and all such state agencies and other state entities are required to implement and comply with this law no later than July 1, 2017.

(d) The State of California, and each and every state administrative agency or other state entity, may adopt rules and regulations to implement the provisions of this section, and may seek any waivers of federal law, rule, and regulation necessary to implement the provisions of this section.

SEC. 5. Liberal Construction.

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 its purposes.

SEC. 6. Conflicting Measures.

This Act is intended to be comprehensive. It is the intent of the people of the State of California that in the event this Act and one or more measures relating to the same subject shall appear on the same statewide ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this Act. In the event that this Act receives a greater number of affirmative votes, the provisions of this Act shall prevail in their entirety, and all provisions of the other measure or measures shall be null and void.

SEC. 7. Proponent Accountability.

The people of the State of California hereby declare that the proponent of this Act should be held civilly liable in the event this Act is struck down, after passage, in whole or in part, by a court of law for being constitutionally or statutorily impermissible. Such a constitutionally or statutorily impermissible initiative is a misuse of taxpayer funds and electoral resources and the Act's proponent, as drafter of the Act, must be held accountable for such an occurrence.

In the event this Act, after passage, is struck down in a court of law, in whole or in part, as unconstitutional or statutorily invalid, and all avenues for appeal have been exhausted, the proponent shall pay a civil penalty of $10,000 to the General Fund of the State of California for failure to draft and sponsor a wholly constitutionally or statutorily permissible initiative law but shall have no other liability to any person or entity with respect to, related to, or arising from the Act. No party or entity may waive this civil penalty.

SEC. 8. Amendment and Repeal.

This Act may be amended to further its purposes by statute passed by a two-thirds vote of the Legislature and signed by the Governor.

SEC. 9. Severability.

If any provision of this Act, or part thereof, or the applicability of any provision or part to any person or circumstances, is for any reason held to be invalid or unconstitutional, the remaining provisions and parts shall

not be affected, but shall remain in full force and effect, and to this end the provisions and parts of this Act are severable. The voters hereby declare that this Act, and each portion and part, would have been adopted irrespective of whether any one or more provisions or parts are found to be invalid or unconstitutional.

SEC. 10. Legal Defense.

The people of the State of California desire that the Act, if approved by the voters, and thereafter challenged in court, be defended by the State of California. The people of the State of California, by enacting this Act, hereby declare that the proponent of this Act has a direct and personal stake in defending this Act from constitutional or statutory challenges to the Act's validity. In the event the Attorney General fails to defend this Act, or the Attorney General fails to appeal an adverse judgment against the constitutionality or statutory permissibility of this Act, in whole or in part, in any court of law, the Act's proponent shall be entitled to assert its direct and personal stake by defending the Act's validity in any court of law and shall be empowered by the citizens through this Act to act as agent of the citizens of the State of California subject to the following conditions: (1) the proponent shall not be considered an "at-will" employee of the State of California, but the Legislature shall have the authority to remove the proponent from their agency role by a majority vote of each house of the Legislature when "good cause" exists to do so, as that term is defined by California case law; (2) the proponent shall take the Oath of Office under Section 3 of Article XX of the California Constitution as an employee of the State of California; (3) the proponent shall be subject to all fiduciary, ethical, and legal duties prescribed by law; and (4) the proponent shall be indemnified by the State of California for only reasonable expenses and other losses incurred by the proponent, as agent, in defending the validity of the challenged Act. The rate of indemnification shall be no more than the amount it would cost the state to perform the defense itself.

SEC. 11. Effective Date.

Except as otherwise provided herein, this Act shall become effective the day after its approval by the voters.

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PROPOSITION 62

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 and repeals sections of the Penal 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

The Justice That Works Act of 2016

SECTION 1. Title.

This initiative shall be known and may be cited as "The Justice That Works Act of 2016."

SEC. 2. Findings and Declarations.

The people of the State of California do hereby find and declare all of the following:

1. Violent killers convicted of first degree murder must be separated from society and severely punished.

2. Under current law, California sentences many criminals to death who commit first degree murder, but the state rarely carries out executions. Instead, the state spends millions of taxpayer dollars providing lawyers for death row inmates, only to see the murderers it has sentenced to death by execution die of old age in prison.

3. Since 1978, California has spent more than $4 billion on a death penalty system that has sentenced nearly one thousand criminals to death by execution but has executed only 13 people. Even though there are over 700 inmates now on death row, California has not executed anyone in almost eleven years.

4. Violent murderers who are sentenced to serve life in prison without the possibility of parole in California are never eligible for parole. They spend the rest of their lives in prison and they die in prison.

5. Fewer than 1% of death row inmates work and pay their wages to compensate their victims. Murderers sentenced to life imprisonment without the possibility of parole are required to work in prison and use their wages to pay restitution to the victims of their crimes.

6. All convicted murderers sentenced to life imprisonment without the possibility of parole should be legally required to work while in prison and pay 60% of their wages to compensate their victims for the damage they caused.

7. While many think it is cheaper to execute murderers than to imprison them for life, in fact it is far more expensive. The death penalty system costs over $100 million more per year to maintain than a system that has life imprisonment without the possibility of parole as its harshest punishment, according to a study by former death penalty prosecutor and judge, Arthur Alarcon, and law professor Paula Mitchell. By replacing the death penalty with life imprisonment without the possibility of parole, California taxpayers would save well over $100 million every year.

8. The death penalty is a failed government program that wastes taxpayer dollars and makes fatal mistakes. More than 150 innocent people have been sentenced to death in this country, and some innocent people have actually been executed. Wrongful convictions rob innocent people of decades of their lives, waste tax dollars, and re-traumatize the victims' families, while the real killers remain free to kill again.

9. Retroactive application of this act will end a costly and ineffective practice immediately and ensure that California never executes an innocent person.

10. California's death penalty is an empty promise. Death penalty cases drag on for decades. A sentence of life in prison without the possibility of parole provides swift and certain justice for grieving families.

11. Life in prison without the possibility of parole ensures that the worst criminals stay in prison forever and saves money. By replacing the death penalty with life in prison without the possibility of parole, we would save the state $1 billion in five years without releasing a single prisoner—$1 billion that could be invested in crime prevention strategies, services for victims, education, and keeping our communities and families safe.

SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting the act to be as follows:

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1. To end California's costly and ineffective death penalty system and replace it with a common sense approach that sentences persons convicted of first degree murder with special circumstances to life imprisonment without the possibility of parole so they are permanently separated from society and required to pay restitution to their victims.

2. To require everyone convicted of first degree murder and sentenced to life imprisonment without the possibility of parole to work while in prison, and to increase to 60% the portion of wages they must pay as restitution to their victims.

3. To eliminate the risk of executing an innocent person.

4. To end the decades-long appeals process in which grieving family members attending multiple hearings are forced to continually relive the trauma of their loss.

5. To achieve fairness and uniformity in sentencing, through retroactive application of this act to replace the death penalty with life in prison without the possibility of parole.

SEC. 4. Section 190 of the Penal Code is amended to read:

190. (a) Every person guilty of murder in the first degree shall be punished by ~~death,~~ imprisonment in the state prison for life without the possibility of parole, or imprisonment in the state prison for a term of 25 years to life. The penalty to be applied shall be determined as provided in Sections ~~190.1,~~ 190.2, ~~190.3,~~ 190.4, and 190.5.

Except as provided in subdivision (b), (c), or (d), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 15 years to life.

(b) Except as provided in subdivision (c), every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 25 years to life if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties.

(c) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of life without the possibility of parole if the victim was a peace officer, as defined in subdivision (a) of Section 830.1, subdivision (a), (b), or (c) of Section 830.2, subdivision (a) of Section 830.33, or Section 830.5, who was killed while engaged in the performance of his or her duties, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties, and any of the following facts has been charged and found true:

(1) The defendant specifically intended to kill the peace officer.

(2) The defendant specifically intended to inflict great bodily injury, as defined in Section 12022.7, on a peace officer.

(3) The defendant personally used a dangerous or deadly weapon in the commission of the offense, in violation of subdivision (b) of Section 12022.

(4) The defendant personally used a firearm in the commission of the offense, in violation of Section 12022.5.

(d) Every person guilty of murder in the second degree shall be punished by imprisonment in the state prison for a term of 20 years to life if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury.

(e) Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not apply to reduce any minimum term of a sentence imposed pursuant to this section. A person sentenced pursuant to this section shall not be released on parole prior to serving the minimum term of confinement prescribed by this section.

(f) Every person found guilty of murder and sentenced or resentenced to a term of life imprisonment without the possibility of parole pursuant to this section shall be required to work within a high-security prison as many hours of faithful labor in each day and every day during his or her term of imprisonment as shall be prescribed by the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to Section 2700. In any case where the prisoner owes a restitution fine or restitution order, the Secretary of the Department of Corrections and Rehabilitation shall deduct money from the wages and trust account deposits of the prisoner and shall transfer those funds to the California Victim Compensation and Government Claims Board according to the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to Sections 2085.5 and 2717.8.

SEC. 5. Section 190.1 of the Penal Code is repealed.

~~190.1. A case in which the death penalty may be imposed pursuant to this chapter shall be tried in separate phases as follows:~~

~~(a) The question of the defendant's guilt shall be first determined. If the trier of fact finds the defendant guilty of first degree murder, it shall at the same time determine the truth of all special circumstances charged as enumerated in Section 190.2 except for a special circumstance charged pursuant to paragraph (2) of subdivision (a) of Section 190.2 where it is alleged that the defendant had been convicted in a prior proceeding of the offense of murder in the first or second degree.~~

~~(b) If the defendant is found guilty of first degree murder and one of the special circumstances is charged pursuant to paragraph (2) of subdivision (a) of Section 190.2 which charges that the defendant had been convicted in a prior proceeding of the offense of murder of the first or second degree, there shall thereupon be further proceedings on the question of the truth of such special circumstance.~~

~~(c) If the defendant is found guilty of first degree murder and one or more special circumstances as enumerated in Section 190.2 has been charged and found to be true, his sanity on any plea of not guilty by reason of insanity under Section 1026 shall be determined as provided in Section 190.4. If he is found to be sane, there shall thereupon be further proceedings on the question of the penalty to be imposed. Such proceedings shall be conducted in accordance with the provisions of Section 190.3 and 190.4.~~

SEC. 6. Section 190.2 of the Penal Code is amended to read:

190.2. (a) The penalty for a defendant who is found guilty of murder in the first degree is ~~death or~~ imprisonment

in the state prison for life without the possibility of parole if one or more of the following special circumstances has been found under Section 190.4 to be true:

(1) The murder was intentional and carried out for financial gain.

(2) The defendant was convicted previously of murder in the first or second degree. For the purpose of this paragraph, an offense committed in another jurisdiction, which if committed in California would be punishable as first or second degree murder, shall be deemed murder in the first or second degree.

(3) The defendant, in this proceeding, has been convicted of more than one offense of murder in the first or second degree.

(4) The murder was committed by means of a destructive device, bomb, or explosive planted, hidden, or concealed in any place, area, dwelling, building, or structure, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to one or more human beings.

(5) The murder was committed for the purpose of avoiding or preventing a lawful arrest, or perfecting or attempting to perfect, an escape from lawful custody.

(6) The murder was committed by means of a destructive device, bomb, or explosive that the defendant mailed or delivered, attempted to mail or deliver, or caused to be mailed or delivered, and the defendant knew, or reasonably should have known, that his or her act or acts would create a great risk of death to one or more human beings.

(7) The victim was a peace officer, as defined in Section 830.1, 830.2, 830.3, 830.31, 830.32, 830.33, 830.34, 830.35, 830.36, 830.37, 830.4, 830.5, 830.6, 830.10, 830.11, or 830.12, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a peace officer engaged in the performance of his or her duties; or the victim was a peace officer, as defined in the above-enumerated sections, or a former peace officer under any of those sections, and was intentionally killed in retaliation for the performance of his or her official duties.

(8) The victim was a federal law enforcement officer or agent who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a federal law enforcement officer or agent engaged in the performance of his or her duties; or the victim was a federal law enforcement officer or agent, and was intentionally killed in retaliation for the performance of his or her official duties.

(9) The victim was a firefighter, as defined in Section 245.1, who, while engaged in the course of the performance of his or her duties, was intentionally killed, and the defendant knew, or reasonably should have known, that the victim was a firefighter engaged in the performance of his or her duties.

(10) The victim was a witness to a crime who was intentionally killed for the purpose of preventing his or her testimony in any criminal or juvenile proceeding, and the killing was not committed during the commission or attempted commission, of the crime to which he or she was a witness; or the victim was a witness to a crime and was intentionally killed in retaliation for his or her testimony in any criminal or juvenile proceeding. As used in this paragraph, "juvenile proceeding" means a proceeding brought pursuant to Section 602 or 707 of the Welfare and Institutions Code.

(11) The victim was a prosecutor or assistant prosecutor or a former prosecutor or assistant prosecutor of any local or state prosecutor's office in this or any other state, or of a federal prosecutor's office, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(12) The victim was a judge or former judge of any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(13) The victim was an elected or appointed official or former official of the federal government, or of any local or state government of this or any other state, and the killing was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(14) The murder was especially heinous, atrocious, or cruel, manifesting exceptional depravity. As used in this section, the phrase "especially heinous, atrocious, or cruel, manifesting exceptional depravity" means a conscienceless or pitiless crime that is unnecessarily torturous to the victim.

(15) The defendant intentionally killed the victim by means of lying in wait.

(16) The victim was intentionally killed because of his or her race, color, religion, nationality, or country of origin.

(17) The murder was committed while the defendant was engaged in, or was an accomplice in, the commission of, attempted commission of, or the immediate flight after committing, or attempting to commit, the following felonies:

(A) Robbery in violation of Section 211 or 212.5.

(B) Kidnapping in violation of Section 207, 209, or 209.5.

(C) Rape in violation of Section 261.

(D) Sodomy in violation of Section 286.

(E) The performance of a lewd or lascivious act upon the person of a child under the age of 14 years in violation of Section 288.

(F) Oral copulation in violation of Section 288a.

(G) Burglary in the first or second degree in violation of Section 460.

(H) Arson in violation of subdivision (b) of Section 451.

(I) Train wrecking in violation of Section 219.

(J) Mayhem in violation of Section 203.

(K) Rape by instrument in violation of Section 289.

(L) Carjacking, as defined in Section 215.

(M) To prove the special circumstances of kidnapping in subparagraph (B), or arson in subparagraph (H), if there is specific intent to kill, it is only required that there be proof of the elements of those felonies. If so established, those two special circumstances are proven even if the felony of kidnapping or arson is committed primarily or solely for the purpose of facilitating the murder.

(18) The murder was intentional and involved the infliction of torture.

(19) The defendant intentionally killed the victim by the administration of poison.

(20) The victim was a juror in any court of record in the local, state, or federal system in this or any other state, and the murder was intentionally carried out in retaliation for, or to prevent the performance of, the victim's official duties.

(21) The murder was intentional and perpetrated by means of discharging a firearm from a motor vehicle, intentionally at another person or persons outside the vehicle with the intent to inflict death. For purposes of this paragraph, "motor vehicle" means any vehicle as defined in Section 415 of the Vehicle Code.

(22) The defendant intentionally killed the victim while the defendant was an active participant in a criminal street gang, as defined in subdivision (f) of Section 186.22, and the murder was carried out to further the activities of the criminal street gang.

(b) Unless an intent to kill is specifically required under subdivision (a) for a special circumstance enumerated therein, an actual killer, as to whom the special circumstance has been found to be true under Section 190.4, need not have had any intent to kill at the time of the commission of the offense which is the basis of the special circumstance in order to suffer ~~death or~~ confinement in the state prison for life without the possibility of parole.

(c) Every person, not the actual killer, who, with the intent to kill, aids, abets, counsels, commands, induces, solicits, requests, or assists any actor in the commission of murder in the first degree shall be punished by ~~death or~~ imprisonment in the state prison for life without the possibility of parole if one or more of the special circumstances enumerated in subdivision (a) has been found to be true under Section 190.4.

(d) Notwithstanding subdivision (c), every person, not the actual killer, who, with reckless indifference to human life and as a major participant, aids, abets, counsels, commands, induces, solicits, requests, or assists in the commission of a felony enumerated in paragraph (17) of subdivision (a) which results in the death of some person or persons, and who is found guilty of murder in the first degree therefor, shall be punished by ~~death or~~ imprisonment in the state prison for life without the possibility of parole if a special circumstance enumerated in paragraph (17) of subdivision (a) has been found to be true under Section 190.4.

The penalty shall be determined as provided in this section and Sections ~~190.1, 190.3,~~ 190.4~~,~~ and 190.5.

SEC. 7. Section 190.3 of the Penal Code is repealed.

~~190.3. If the defendant has been found guilty of murder in the first degree, and a special circumstance has been charged and found to be true, or if the defendant may be subject to the death penalty after having been found guilty of violating subdivision (a) of Section 1672 of the Military and Veterans Code or Sections 37, 128, 219, or 4500 of this code, the trier of fact shall determine whether the penalty shall be death or confinement in state prison for a term of life without the possibility of parole. In the proceedings on the question of penalty, evidence may be presented by both the people and the defendant as to any matter relevant to aggravation, mitigation, and sentence including, but not limited to, the nature and circumstances of the present offense, any prior felony conviction or convictions whether or not such conviction or convictions involved a crime of violence, the presence or absence of other criminal activity by the defendant which involved the use or attempted use of force or violence or which involved the express or implied threat to use force or violence, and the defendant's character, background, history, mental condition and physical condition.~~

~~However, no evidence shall be admitted regarding other criminal activity by the defendant which did not involve the use or attempted use of force or violence or which did not involve the express or implied threat to use force or violence. As used in this section, criminal activity does not require a conviction.~~

~~However, in no event shall evidence of prior criminal activity be admitted for an offense for which the defendant was prosecuted and acquitted. The restriction on the use of this evidence is intended to apply only to proceedings pursuant to this section and is not intended to affect statutory or decisional law allowing such evidence to be used in any other proceedings.~~

~~Except for evidence in proof of the offense or special circumstances which subject a defendant to the death penalty, no evidence may be presented by the prosecution in aggravation unless notice of the evidence to be introduced has been given to the defendant within a reasonable period of time as determined by the court, prior to trial. Evidence may be introduced without such notice in rebuttal to evidence introduced by the defendant in mitigation.~~

~~The trier of fact shall be instructed that a sentence of confinement to state prison for a term of life without the possibility of parole may in future after sentence is imposed, be commuted or modified to a sentence that includes the possibility of parole by the Governor of the State of California.~~

~~In determining the penalty, the trier of fact shall take into account any of the following factors if relevant:~~

~~(a) The circumstances of the crime of which the defendant was convicted in the present proceeding and the existence of any special circumstances found to be true pursuant to Section 190.1.~~

~~(b) The presence or absence of criminal activity by the defendant which involved the use of attempted use of force or violence or the express or implied threat to use force or violence.~~

~~(c) The presence or absence of any prior felony conviction.~~

~~(d) Whether or not the offense was committed while the defendant was under the influence of extreme mental or emotional disturbance.~~

~~(e) Whether or not the victim was a participant in the defendant's homicidal conduct or consented to the homicidal act.~~

~~(f) Whether or not the offense was committed under circumstances which the defendant reasonably believed to be a moral justification or extenuation for his conduct.~~

~~(g) Whether or not defendant acted under extreme duress or under the substantial domination of another person.~~

~~(h) Whether or not at the time of the offense the capacity of the defendant to appreciate the criminality of his conduct or to conform his conduct to the requirements of law was impaired as a result of mental disease or defect, or the affects of intoxication.~~

~~(i) The age of the defendant at the time of the crime.~~

~~(j) Whether or not the defendant was an accomplice to the offense and his participation in the commission of the offense was relatively minor.~~

~~(k) Any other circumstance which extenuates the gravity of the crime even though it is not a legal excuse for the crime.~~

~~After having heard and received all of the evidence, and after having heard and considered the arguments of counsel, the trier of fact shall consider, take into account and be guided by the aggravating and mitigating circumstances referred to in this section, and shall impose a sentence of death if the trier of fact concludes that the aggravating circumstances outweigh the mitigating circumstances. If the trier of fact determines that the mitigating circumstances outweigh the aggravating circumstances the trier of fact shall impose a sentence of confinement in state prison for a term of life without the possibility of parole.~~

SEC. 8. Section 190.4 of the Penal Code is amended to read:

190.4. (a) Whenever special circumstances as enumerated in Section 190.2 are alleged and the trier of fact finds the defendant guilty of first degree murder, the trier of fact shall also make a special finding on the truth of each alleged special circumstance. The determination of the truth of any or all of the special circumstances shall be made by the trier of fact on the evidence presented at the trial ~~or at the hearing held pursuant to Subdivision (b) of Section 190.1~~.

In case of a reasonable doubt as to whether a special circumstance is true, the defendant is entitled to a finding that is not true. The trier of fact shall make a special finding that each special circumstance charged is either true or not true. Whenever a special circumstance requires proof of the commission or attempted commission of a crime, such crime shall be charged and proved pursuant to the general law applying to the trial and conviction of the crime.

If the defendant was convicted by the court sitting without a jury, the trier of fact shall be a jury unless a jury is waived by the defendant and by the people, in which case the trier of fact shall be the court. If the defendant was convicted by a plea of guilty, the trier of fact shall be a jury unless a jury is waived by the defendant and by the people.

If the trier of fact finds that any one or more of the special circumstances enumerated in Section 190.2 as charged is true, ~~there shall be a separate penalty hearing,~~ *the defendant shall be punished by imprisonment in state prison for life without the possibility of parole.* ~~and neither the finding that any of the remaining special circumstances charged is not true, nor if the trier of fact is a jury, the inability of the jury to agree on the issue of the truth or untruth of any of the remaining special circumstances charged, shall prevent the holding of a separate penalty hearing.~~

~~In any case in which the defendant has been found guilty by a jury, and the jury has been unable to reach an unanimous verdict that one or more of the special circumstances charged are true, and does not reach a unanimous verdict that all the special circumstances charged are not true, the court shall dismiss the jury and shall order a new jury impaneled to try the issues, but the issue of guilt shall not be tried by such jury, nor shall such jury retry the issue of the truth of any of the special circumstances which were found by an unanimous verdict of the previous jury to be untrue. If such new jury is unable to reach the unanimous verdict that one or more of the special circumstances it is trying are true, the court shall dismiss the jury and in the court's discretion shall either order a new jury impaneled to try the issues the previous jury was unable to reach the unanimous verdict on, or impose a punishment of confinement in state prison for a term of 25 years.~~

~~(b) If defendant was convicted by the court sitting without a jury the trier of fact at the penalty hearing shall be a jury unless a jury is waived by the defendant and the people, in which case the trier of fact shall be the court. If the defendant was convicted by a plea of guilty, the trier of fact shall be a jury unless a jury is waived by the defendant and the people.~~

~~If the trier of fact is a jury and has been unable to reach a unanimous verdict as to what the penalty shall be, the court shall dismiss the jury and shall order a new jury impaneled to try the issue as to what the penalty shall be. If such new jury is unable to reach a unanimous verdict as to what the penalty shall be, the court in its discretion shall either order a new jury or impose a punishment of confinement in state prison for a term of life without the possibility of parole.~~

~~(c)~~ *(b)* If the trier of fact which convicted the defendant of a crime for which he may be subject to *imprisonment in state prison for life without the possibility of parole* ~~the death penalty~~ was a jury, the same jury shall consider any plea of not guilty by reason of insanity pursuant to Section 1026, *and* the truth of any special circumstances which may be alleged~~, and the penalty to be applied~~, unless for good cause shown the court discharges that jury in which case a new jury shall be drawn. The court shall state facts in support of the finding of good cause upon the record and cause them to be entered into the minutes.

~~(d) In any case in which the defendant may be subject to the death penalty, evidence presented at any prior phase of the trial, including any proceeding under a plea of not guilty by reason of insanity pursuant to Section 1026 shall be considered an any subsequent phase of the trial, if the trier of fact of the prior phase is the same trier of fact at the subsequent phase.~~

~~(e) In every case in which the trier of fact has returned a verdict or finding imposing the death penalty, the defendant shall be deemed to have made an application for modification of such verdict or finding pursuant to Subdivision 7 of Section 11. In ruling on the application, the judge shall review the evidence, consider, take into account, and be guided by the aggravating and mitigating circumstances referred to in Section 190.3, and shall make a determination as to whether the jury's findings and verdicts that the aggravating circumstances outweigh the mitigating circumstances are contrary to law or the evidence presented. The judge shall state on the record the reasons for his findings.~~

~~The judge shall set forth the reasons for his ruling on the application and direct that they be entered on the Clerk's minutes. The denial of the modification of the death penalty verdict pursuant to subdivision (7) of Section 1181 shall be reviewed on the defendant's automatic appeal pursuant to subdivision (b) of Section 1239. The granting of the application shall be reviewed on the People's appeal pursuant to paragraph (6).~~

SEC. 9. Section 2085.5 of the Penal Code is amended to read:

2085.5. (a) *(1)* In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the Secretary of the Department of Corrections and Rehabilitation shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation Board for deposit in the Restitution Fund in the State Treasury. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(2) In any case in which a prisoner sentenced or resentenced on or after the effective date of this act to a term of life imprisonment without the possibility of parole owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the Secretary of the Department of Corrections and Rehabilitation shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 60 percent from the wages and up to a maximum of 50 percent from the trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation Board for deposit in the Restitution Fund in the State Treasury. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(b) (1) When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, in any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation Board for deposit in the Restitution Fund in the State Treasury. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(2) If the board of supervisors designates the county sheriff as the collecting agency, the board of supervisors shall first obtain the concurrence of the county sheriff.

(c) *(1)* In any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4, the Secretary of the Department of Corrections and Rehabilitation shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law. The secretary shall transfer that amount to the California Victim Compensation Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. The sentencing court shall be provided a record of the payments made to victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(2) In any case in which a prisoner sentenced or resentenced on or after the effective date of this act to a term of life imprisonment without the possibility of parole owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4, the Secretary of the Department of Corrections and Rehabilitation shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 60 percent from the wages and up to a maximum of 50 percent from the trust account deposits of a prisoner, unless prohibited by federal law. The secretary shall transfer that amount to the California Victim Compensation Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. The sentencing court shall be provided a record of the payments made to victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(d) When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, in any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law. The agency shall transfer that amount to the California Victim Compensation Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program, or may pay the victim directly. The sentencing court shall be provided a record of the payments made to the victims and of the payments deposited to the Restitution Fund pursuant to this subdivision.

(e) The secretary shall deduct and retain from the wages and trust account deposits of a prisoner, unless prohibited by federal law, an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation Board pursuant to subdivision (a) or (c). The secretary shall deduct and retain from any prisoner settlement or trial award, an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. The secretary shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections and Rehabilitation. The secretary, at his or her discretion, may retain any excess funds in the special deposit account for future reimbursement of the department's administrative and support costs for the

restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(f) When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated is authorized to deduct and retain from the county jail equivalent of wages and trust account deposits of a prisoner, unless prohibited by federal law, an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation Board pursuant to subdivision (b) or (d). The agency is authorized to deduct and retain from a prisoner settlement or trial award an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. Upon release from custody pursuant to subdivision (h) of Section 1170, the agency is authorized to charge a fee to cover the actual administrative cost of collection, not to exceed 10 percent of the total amount collected. The agency shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the agency. The agency is authorized to retain any excess funds in the special deposit account for future reimbursement of the agency's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(g) In any case in which a parolee owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the secretary, or, when a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated, may collect from the parolee or, pursuant to Section 2085.6, from a person previously imprisoned in county jail any moneys owing on the restitution fine amount, unless prohibited by federal law. The secretary or the agency shall transfer that amount to the California Victim Compensation Board for deposit in the Restitution Fund in the State Treasury. The amount deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(h) In any case in which a parolee owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 29, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or paragraph (3) of subdivision (a) of Section 1202.4, the secretary, or, when a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated or a local collection program, may collect from the parolee or, pursuant to Section 2085.6, from a person previously imprisoned in county jail any moneys owing, unless prohibited by federal law. The secretary or the agency shall transfer that amount to the California Victim Compensation Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program, or the agency may pay the victim directly. The sentencing court shall be provided a record of the payments made by the offender pursuant to this subdivision.

(i) The secretary, or, when a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated, may deduct and retain from moneys collected from parolees or persons previously imprisoned in county jail an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation Board pursuant to subdivision (g) or (h), unless prohibited by federal law. The secretary shall deduct and retain from any settlement or trial award of a parolee an administrative fee that totals 5 percent of an amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n), unless prohibited by federal law. The agency is authorized to deduct and retain from any settlement or trial award of a person previously imprisoned in county jail an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (n). The secretary or the agency shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections and Rehabilitation or the agency, as applicable. The secretary, at his or her discretion, or the agency may retain any excess funds in the special deposit account for future reimbursement of the department's or agency's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(j) When a prisoner has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections and Rehabilitation shall collect the restitution order first pursuant to subdivision (c).

(k) When a prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170 and that prisoner has both a restitution fine and a restitution order from the sentencing court, if the agency designated by the board of supervisors in the county where the prisoner is incarcerated collects the fine and order, the agency shall collect the restitution order first pursuant to subdivision (d).

(*l*) When a parolee has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections and Rehabilitation, or, when the prisoner is punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency designated by the board of supervisors in the county where the prisoner is incarcerated, may collect the restitution order first, pursuant to subdivision (h).

(m) If an inmate is housed at an institution that requires food to be purchased from the institution canteen for unsupervised overnight visits, and if the money for the purchase of this food is received from funds other than the inmate's wages, that money shall be exempt from restitution deductions. This exemption shall apply to the actual amount spent on food for the visit up to a maximum of fifty dollars ($50) for visits that include the inmate and one visitor, seventy dollars ($70) for visits that include the inmate and two or three visitors, and eighty dollars ($80) for visits that include the inmate and four or more visitors.

(n) Compensatory or punitive damages awarded by trial or settlement to any inmate, parolee, person placed on postrelease community supervision pursuant to Section 3451, or defendant on mandatory supervision imposed pursuant to subparagraph (B) of paragraph (5) of

subdivision (h) of Section 1170, in connection with a civil action brought against a federal, state, or local jail, prison, or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against that person. The balance of the award shall be forwarded to the payee after full payment of all outstanding restitution orders and restitution fines, subject to subdivisions (e) and (i). The Department of Corrections and Rehabilitation shall make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages. For any prisoner punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170, the agency is authorized to make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages.

(o) (1) Amounts transferred to the California Victim Compensation Board for payment of direct orders of restitution shall be paid to the victim within 60 days from the date the restitution revenues are received by the California Victim Compensation Board. If the restitution payment to a victim is less than twenty-five dollars ($25), then payment need not be forwarded to that victim until the payment reaches twenty-five dollars ($25) or when the victim requests payment of the lesser amount.

(2) If a victim cannot be located, the restitution revenues received by the California Victim Compensation Board on behalf of the victim shall be held in trust in the Restitution Fund until the end of the state fiscal year subsequent to the state fiscal year in which the funds were deposited or until the time that the victim has provided current address information, whichever occurs sooner. Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) (A) A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections and Rehabilitation, which shall verify that moneys were collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections and Rehabilitation, the California Victim Compensation Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (c) or (h).

(B) A victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the agency designated by the board of supervisors in the county where the prisoner punished by imprisonment in a county jail pursuant to subdivision (h) of Section 1170 is incarcerated, which may verify that moneys were collected on behalf of the victim. Upon receipt of that verified information from the agency, the California Victim Compensation Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (d) or (h).

SEC. 10. Retroactive Application of Act.

(a) In order to best achieve the purpose of this act as stated in Section 3 and to achieve fairness, equality, and uniformity in sentencing, this act shall be applied retroactively.

(b) In any case where a defendant or inmate was sentenced to death prior to the effective date of this act, the sentence shall automatically be converted to imprisonment in the state prison for life without the possibility of parole under the terms and conditions of this act. The State of California shall not carry out any execution following the effective date of this act.

(c) Following the effective date of this act, the Supreme Court may transfer all death penalty appeals and habeas petitions pending before the Supreme Court to any district of the Court of Appeal or superior court, in the Supreme Court's discretion.

SEC. 11. Effective Date.

This act shall become effective on the day following the election at which it was approved, pursuant to subdivision (a) of Section 10 of Article II of the California Constitution.

SEC. 12. Severability.

The provisions of this act are severable. If any provision of this act or its application is held invalid, including but not limited to Section 10, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

PROPOSITION 63

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 Penal 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

The Safety for All Act of 2016

SECTION 1. Title.

This measure shall be known and may be cited as "The Safety for All Act of 2016."

SEC. 2. Findings and Declarations.

The people of the State of California find and declare:

1. Gun violence destroys lives, families and communities. From 2002 to 2013, California lost 38,576 individuals to gun violence. That is more than seven times the number of U.S. soldiers killed in combat during the wars in Iraq and Afghanistan combined. Over this same period, 2,258 children were killed by gunshot injuries in California. The same number of children murdered in the Sandy Hook elementary school massacre are killed by gunfire in this state every 39 days.

2. In 2013, guns were used to kill 2,900 Californians, including 251 children and teens. That year, at least 6,035 others were hospitalized or treated in emergency rooms for non-fatal gunshot wounds, including 1,275 children and teens.

3. Guns are commonly used by criminals. According to the California Department of Justice, in 2014 there were 1,169 firearm murders in California, 13,546 armed robberies involving a firearm, and 15,801 aggravated assaults involving a firearm.

4. This tragic violence imposes significant economic burdens on our society. Researchers conservatively estimate that gun violence costs the economy at least $229 billion every year, or more than $700 per American

per year. In 2013 alone, California gun deaths and injuries imposed $83 million in medical costs and $4.24 billion in lost productivity.

5. California can do better. Reasonable, common-sense gun laws reduce gun deaths and injuries, keep guns away from criminals and fight illegal gun trafficking. Although California has led the nation in gun safety laws, those laws still have loopholes that leave communities throughout the state vulnerable to gun violence and mass shootings. We can close these loopholes while still safeguarding the ability of law-abiding, responsible Californians to own guns for self-defense, hunting and recreation.

6. We know background checks work. Federal background checks have already prevented more than 2.4 million gun sales to convicted criminals and other illegal purchasers in America. In 2012 alone, background checks blocked 192,043 sales of firearms to illegal purchasers including 82,000 attempted purchases by felons. That means background checks stopped roughly 225 felons from buying firearms every day. Yet California law only requires background checks for people who purchase firearms, not for people who purchase ammunition. We should close that loophole.

7. Right now, any violent felon or dangerously mentally ill person can walk into a sporting goods store or gun shop in California and buy ammunition, no questions asked. That should change. We should require background checks for ammunition sales just like gun sales, and stop both from getting into the hands of dangerous individuals.

8. Under current law, stores that sell ammunition are not required to report to law enforcement when ammunition is lost or stolen. Stores should have to report lost or stolen ammunition within 48 hours of discovering that it is missing so law enforcement can work to prevent that ammunition from being illegally trafficked into the hands of dangerous individuals.

9. Californians today are not required to report lost or stolen guns to law enforcement. This makes it difficult for law enforcement to investigate crimes committed with stolen guns, break up gun trafficking rings, and return guns to their lawful owners. We should require gun owners to report their lost or stolen guns to law enforcement.

10. Under current law, people who commit felonies and other serious crimes are prohibited from possessing firearms. Yet existing law provides no clear process for those people to relinquish their guns when they become prohibited at the time of conviction. As a result, in 2014, the Department of Justice identified more than 17,000 people who possess more than 34,000 guns illegally, including more than 1,400 assault weapons. We need to close this dangerous loophole by not only requiring prohibited people to tum in their guns, but also ensuring that it happens.

11. Military-style large-capacity ammunition magazines—some capable of holding more than 100 rounds of ammunition—significantly increase a shooter's ability to kill a lot of people in a short amount of time. That is why these large capacity ammunition magazines are common in many of America's most horrific mass shootings, from the killings at 101 California Street in San Francisco in 1993 to Columbine High School in 1999 to the massacre at Sandy Hook Elementary School in Newtown, Connecticut in 2012.

12. Today, California law prohibits the manufacture, importation and sale of military-style, large capacity ammunition magazines, but does not prohibit the general public from possessing them. We should close that loophole. No one except trained law enforcement should be able to possess these dangerous ammunition magazines.

13. Although the State of California conducts background checks on gun buyers who live in California, we have to rely on other states and the FBI to conduct background checks on gun buyers who live elsewhere. We should make background checks outside of California more effective by consistently requiring the state to report who is prohibited from possessing firearms to the federal background check system.

14. The theft of a gun is a serious and potentially violent crime. We should clarify that such crimes can be charged as felonies, and prevent people who are convicted of such crimes from possessing firearms.

SEC. 3. Purpose and Intent.

The people of the State of California declare their purpose and intent in enacting "The Safety for All Act of 2016" (the "Act") to be as follows:

1. To implement reasonable and common-sense reforms to make California's gun safety laws the toughest in the nation while still safeguarding the Second Amendment rights of all law-abiding, responsible Californians.

2. To keep guns and ammunition out of the hands of convicted felons, the dangerously mentally ill, and other persons who are prohibited by law from possessing firearms and ammunition.

3. To ensure that those who buy ammunition in California—just like those who buy firearms—are subject to background checks.

4. To require all stores that sell ammunition to report any lost or stolen ammunition within 48 hours of discovering that it is missing.

5. To ensure that California shares crucial information with federal law enforcement by consistently requiring the state to report individuals who are prohibited by law from possessing firearms to the federal background check system.

6. To require the reporting of lost or stolen firearms to law enforcement.

7. To better enforce the laws that require people to relinquish their firearms once they are convicted of a crime that makes them ineligible to possess firearms.

8. To make it illegal in California to possess the kinds of military-style ammunition magazines that enable mass killings like those at Sandy Hook Elementary School; a movie theater in Aurora, Colorado; Columbine High School; and an office building at 101 California Street in San Francisco, California.

9. To prevent people who are convicted of the theft of a firearm from possessing firearms, and to effectuate the intent of Proposition 47 that the theft of a firearm is felony grand theft, regardless of the value of the firearm, in alignment with Sections 25400 and 1192.7 of the Penal Code.

SEC. 4. Lost or Stolen Firearms.

SEC. 4.1. Division 4.5 (commencing with Section 25250) is added to Title 4 of Part 6 of the Penal Code, to read:

DIVISION 4.5. LOST OR STOLEN FIREARMS

25250. (a) Commencing July 1, 2017, every person shall report the loss or theft of a firearm he or she owns or possesses to a local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days of the time he or she knew or reasonably should have known that the firearm had been stolen or lost.

(b) Every person who has reported a firearm lost or stolen under subdivision (a) shall notify the local law enforcement agency in the jurisdiction in which the theft or loss occurred within five days if the firearm is subsequently recovered by the person.

(c) Notwithstanding subdivision (a), a person shall not be required to report the loss or theft of a firearm that is an antique firearm within the meaning of subdivision (c) of Section 16170.

25255. Section 25250 shall not apply to the following:

(a) Any law enforcement agency or peace officer acting within the course and scope of his or her employment or official duties if he or she reports the loss or theft to his or her employing agency.

(b) Any United States marshal or member of the Armed Forces of the United States or the National Guard, while engaged in his or her official duties.

(c) Any person who is licensed, pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, and who reports the theft or loss in accordance with Section 923(g)(6) of Title 18 of the United States Code, or the successor provision thereto, and applicable regulations issued thereto.

(d) Any person whose firearm was lost or stolen prior to July 1, 2017.

25260. Pursuant to Section 11108, every sheriff or police chief shall submit a description of each firearm that has been reported lost or stolen directly into the Department of Justice Automated Firearms System.

25265. (a) Every person who violates Section 25250 is, for a first violation, guilty of an infraction, punishable by a fine not to exceed one hundred dollars ($100).

(b) Every person who violates Section 25250 is, for a second violation, guilty of an infraction, punishable by a fine not to exceed one thousand dollars ($1,000).

(c) Every person who violates Section 25250 is, for a third or subsequent violation, guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding six months, or by a fine not to exceed one thousand dollars ($1,000), or by both that fine and imprisonment.

25270. Every person reporting a lost or stolen firearm pursuant to Section 25250 shall report the make, model, and serial number of the firearm, if known by the person, and any additional relevant information required by the local law enforcement agency taking the report.

25275. (a) No person shall report to a local law enforcement agency that a firearm has been lost or stolen, knowing the report to be false. A violation of this section is an infraction, punishable by a fine not exceeding two hundred fifty dollars ($250) for a first offense, and by a fine not exceeding one thousand dollars ($1,000) for a second or subsequent offense.

(b) This section shall not preclude prosecution under any other law.

SEC. 4.2. Section 26835 of the Penal Code is amended to read:

26835. A licensee shall post conspicuously within the licensed premises the following warnings in block letters not less than one inch in height:

(a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A MISDEMEANOR OR A FELONY UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY FUNCTIONING."

(c) "IF YOU KEEP ANY FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND CARRIES IT OFF-PREMISES TO A SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO FIVE THOUSAND DOLLARS ($5,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(d) "IF YOU NEGLIGENTLY STORE OR LEAVE A LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR CUSTODY OR CONTROL, WHERE A PERSON UNDER 18 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP TO ONE THOUSAND DOLLARS ($1,000), UNLESS YOU STORED THE FIREARM IN A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

(e) "DISCHARGING FIREARMS IN POORLY VENTILATED AREAS, CLEANING FIREARMS, OR HANDLING AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS, REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES. WASH HANDS THOROUGHLY AFTER EXPOSURE."

(f) "FEDERAL REGULATIONS PROVIDE THAT IF YOU DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL BACKGROUND CHECK PAPERWORK, THEN YOU HAVE TO GO THROUGH THE BACKGROUND CHECK PROCESS A SECOND TIME IN ORDER TO TAKE PHYSICAL POSSESSION OF THAT FIREARM."

(g) "NO PERSON SHALL MAKE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO ANY PERSON WHO HAS MADE AN APPLICATION TO PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM CAPABLE OF BEING CONCEALED UPON THE PERSON WITHIN ANY 30-DAY PERIOD."

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(h) "IF A FIREARM YOU OWN OR POSSESS IS LOST OR STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME YOU KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE FIREARM HAD BEEN LOST OR STOLEN."

SEC. 5. Strengthening the National Instant Criminal Background Check System.

SEC. 5.1. Section 28220 of the Penal Code is amended to read:

28220. (a) Upon submission of firearm purchaser information, the Department of Justice shall examine its records, as well as those records that it is authorized to request from the State Department of State Hospitals pursuant to Section 8104 of the Welfare and Institutions Code, in order to determine if the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm.

(b) ~~To the extent that funding is available, the~~ *The* Department of Justice ~~may~~ *shall* participate in the National Instant Criminal Background Check System (NICS), as described in subsection (t) of Section 922 of Title 18 of the United States Code, and~~, if that participation is implemented,~~ shall notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, that the purchaser is a person prohibited from acquiring a firearm under federal law.

(c) If the department determines that the purchaser is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm or is a person described in subdivision (a) of Section 27535, it shall immediately notify the dealer and the chief of the police department of the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact.

(d) If the department determines that the copies of the register submitted to it pursuant to subdivision (d) of Section 28210 contain any blank spaces or inaccurate, illegible, or incomplete information, preventing identification of the purchaser or the handgun or other firearm to be purchased, or if any fee required pursuant to Section 28225 is not submitted by the dealer in conjunction with submission of copies of the register, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall submit corrected copies of the register to the department, or shall submit any fee required pursuant to Section 28225, or both, as appropriate and, if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(e) If the department determines that the information transmitted to it pursuant to Section 28215 contains inaccurate or incomplete information preventing identification of the purchaser or the handgun or other firearm to be purchased, or if the fee required pursuant to Section 28225 is not transmitted by the dealer in conjunction with transmission of the electronic or telephonic record, the department may notify the dealer of that fact. Upon notification by the department, the dealer shall transmit corrections to the record of electronic or telephonic transfer to the department, or shall transmit any fee required pursuant to Section 28225, or both, as appropriate, and if notification by the department is received by the dealer at any time prior to delivery of the firearm to be purchased, the dealer shall withhold delivery until the conclusion of the waiting period described in Sections 26815 and 27540.

(f) (1) (A) The department shall immediately notify the dealer to delay the transfer of the firearm to the purchaser if the records of the department, or the records available to the department in the National Instant Criminal Background Check System, indicate one of the following:

(i) The purchaser has been taken into custody and placed in a facility for mental health treatment or evaluation and may be a person described in Section 8100 or 8103 of the Welfare and Institutions Code and the department is unable to ascertain whether the purchaser is a person who is prohibited from possessing, receiving, owning, or purchasing a firearm, pursuant to Section 8100 or 8103 of the Welfare and Institutions Code, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(ii) The purchaser has been arrested for, or charged with, a crime that would make him or her, if convicted, a person who is prohibited by state or federal law from possessing, receiving, owning, or purchasing a firearm, and the department is unable to ascertain whether the purchaser was convicted of that offense prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(iii) The purchaser may be a person described in subdivision (a) of Section 27535, and the department is unable to ascertain whether the purchaser, in fact, is a person described in subdivision (a) of Section 27535, prior to the conclusion of the waiting period described in Sections 26815 and 27540.

(B) The dealer shall provide the purchaser with information about the manner in which he or she may contact the department regarding the delay described in subparagraph (A).

(2) The department shall notify the purchaser by mail regarding the delay and explain the process by which the purchaser may obtain a copy of the criminal or mental health record the department has on file for the purchaser. Upon receipt of that criminal or mental health record, the purchaser shall report any inaccuracies or incompleteness to the department on an approved form.

(3) If the department ascertains the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), after the waiting period described in Sections 26815 and 27540, but within 30 days of the dealer's original submission of the purchaser information to the department pursuant to this section, the department shall do the following:

(A) If the purchaser is not a person described in subdivision (a) of Section 27535, and is not prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer of that fact and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or

record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(B) If the purchaser is a person described in subdivision (a) of Section 27535, or is prohibited by state or federal law, including, but not limited to, Section 8100 or 8103 of the Welfare and Institutions Code, from possessing, receiving, owning, or purchasing a firearm, the department shall immediately notify the dealer and the chief of the police department in the city or city and county in which the sale was made, or if the sale was made in a district in which there is no municipal police department, the sheriff of the county in which the sale was made, of that fact in compliance with subdivision (c) of Section 28220.

(4) If the department is unable to ascertain the final disposition of the arrest or criminal charge, or the outcome of the mental health treatment or evaluation, or the purchaser's eligibility to purchase a firearm, as described in paragraph (1), within 30 days of the dealer's original submission of purchaser information to the department pursuant to this section, the department shall immediately notify the dealer and the dealer may then immediately transfer the firearm to the purchaser, upon the dealer's recording on the register or record of electronic transfer the date that the firearm is transferred, the dealer signing the register or record of electronic transfer indicating delivery of the firearm to that purchaser, and the purchaser signing the register or record of electronic transfer acknowledging the receipt of the firearm on the date that the firearm is delivered to him or her.

(g) Commencing July 1, 2017, upon receipt of information demonstrating that a person is prohibited from possessing a firearm pursuant to federal or state law, the department shall submit the name, date of birth, and physical description of the person to the National Instant Criminal Background Check System Index, Denied Persons Files. The information provided shall remain privileged and confidential, and shall not be disclosed, except for the purpose of enforcing federal or state firearms laws.

SEC. 6. Possession of Large-Capacity Magazines.

SEC. 6.1. Section 32310 of the Penal Code is amended to read:

32310. (a) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, ~~commencing January 1, 2000,~~ any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, buys, or receives any large-capacity magazine is punishable by imprisonment in a county jail not exceeding one year or imprisonment pursuant to subdivision (h) of Section 1170.

(b) For purposes of this section, "manufacturing" includes both fabricating a magazine and assembling a magazine from a combination of parts, including, but not limited to, the body, spring, follower, and floor plate or end plate, to be a fully functioning large-capacity magazine.

(c) Except as provided in Article 2 (commencing with Section 32400) of this chapter and in Chapter 1 (commencing with Section 17700) of Division 2 of Title 2, commencing July 1, 2017, any person in this state who possesses any large-capacity magazine, regardless of the date the magazine was acquired, is guilty of an infraction punishable by a fine not to exceed one hundred dollars ($100) per large-capacity magazine, or is guilty of a misdemeanor punishable by a fine not to exceed one hundred dollars ($100) per large-capacity magazine, by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment.

(d) Any person who may not lawfully possess a large-capacity magazine commencing July 1, 2017 shall, prior to July 1, 2017:

(1) Remove the large-capacity magazine from the state;

(2) Sell the large-capacity magazine to a licensed firearms dealer; or

(3) Surrender the large-capacity magazine to a law enforcement agency for destruction.

SEC. 6.2. Section 32400 of the Penal Code is amended to read:

32400. Section 32310 does not apply to the sale of, giving of, lending of, *possession of,* importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties, whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

SEC. 6.3. Section 32405 of the Penal Code is amended to read:

32405. Section 32310 does not apply to the sale to, lending to, transfer to, purchase by, receipt of, *possession of,* or importation into this state of, a large-capacity magazine by a sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, *or sworn federal law enforcement officer,* who is authorized to carry a firearm in the course and scope of that officer's duties.

SEC. 6.4. Section 32406 is added to the Penal Code, to read:

32406. Subdivision (c) of Section 32310 does not apply to an honorably retired sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or honorably retired sworn federal law enforcement officer, who was authorized to carry a firearm in the course and scope of that officer's duties. "Honorably retired" shall have the same meaning as provided in Section 16690.

SEC. 6.5. Section 32410 of the Penal Code is amended to read:

32410. Section 32310 does not apply to the sale*,* ~~or~~ purchase*, or possession* of any large-capacity magazine to or by a person licensed pursuant to Sections 26700 to 26915, inclusive.

SEC. 6.6. Section 32420 of the Penal Code is repealed.

~~32420. Section 32310 does not apply to the importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the same large-capacity magazine.~~

SEC. 6.7. Section 32425 of the Penal Code is amended to read:

32425. Section 32310 does not apply to ~~either~~ *any* of the following:

(a) The lending or giving of any large-capacity magazine to a person licensed pursuant to Sections 26700 to 26915, inclusive, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(b) The possession of any large-capacity magazine by a person specified in subdivision (a) for the purposes specified in subdivision (a).

~~(b)~~ *(c)* The return to its owner of any large-capacity magazine by a person specified in subdivision (a).

SEC. 6.8. Section 32435 of the Penal Code is amended to read:

32435. Section 32310 does not apply to any of the following:

(a) The sale of, giving of, lending of, *possession of,* importation into this state of, or purchase of, any large-capacity magazine, to or by any entity that operates an armored vehicle business pursuant to the laws of this state.

(b) The lending of large-capacity magazines by an entity specified in subdivision (a) to its authorized employees, while in the course and scope of employment for purposes that pertain to the entity's armored vehicle business.

(c) The possession of any large-capacity magazines by the employees of an entity specified in subdivision (a) for purposes that pertain to the entity's armored vehicle business.

~~(c)~~ *(d)* The return of those large-capacity magazines to the entity specified in subdivision (a) by those employees specified in subdivision (b).

SEC. 6.9. Section 32450 of the Penal Code is amended to read:

32450. Section 32310 does not apply to the purchase *or possession* of a large-capacity magazine by the holder of a special weapons permit issued pursuant to Section 31000, 32650, or 33300, or pursuant to Article 3 (commencing with Section 18900) of Chapter 1 of Division 5 of Title 2, or pursuant to Article 4 (commencing with Section 32700) of Chapter 6 of this division, for any of the following purposes:

(a) For use solely as a prop for a motion picture, television, or video production.

(b) For export pursuant to federal regulations.

(c) For resale to law enforcement agencies, government agencies, or the military, pursuant to applicable federal regulations.

SEC. 7. Firearms Dealers.

SEC. 7.1. Section 26885 of the Penal Code is amended to read:

26885. (a) Except as provided in subdivisions (b) and (c) of Section 26805, all firearms that are in the inventory of a licensee shall be kept within the licensed location.

(b) Within 48 hours of discovery, a licensee shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the licensee's business premises are located:

(1) Any firearm *or ammunition* that is merchandise of the licensee.

(2) Any firearm *or ammunition* that the licensee takes possession of pursuant to Chapter 5 (commencing with Section 28050)*, or pursuant to Section 30312*.

(3) Any firearm *or ammunition* kept at the licensee's place of business.

SEC. 7.2. Section 26915 of the Penal Code is amended to read:

26915. (a) *Commencing January 1, 2018, a* ~~A~~ firearms dealer ~~may~~ *shall* require any agent *or employee* who handles, sells, or delivers firearms to obtain and provide to the dealer a certificate of eligibility from the Department of Justice pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and California firearms dealer number of the firearms dealer with whom the person is employed.

(b) The department shall notify the firearms dealer in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing firearms.

(c) If the local jurisdiction requires a background check of the agents or employees of a firearms dealer, the agent or employee shall obtain a certificate of eligibility pursuant to subdivision (a).

(d) (1) Nothing in this section shall be construed to preclude a local jurisdiction from conducting an additional background check pursuant to Section 11105. The local jurisdiction may not charge a fee for the additional criminal history check.

(2) Nothing in this section shall be construed to preclude a local jurisdiction from prohibiting employment based on criminal history that does not appear as part of obtaining a certificate of eligibility.

(e) The licensee shall prohibit any agent who the licensee knows or reasonably should know is within a class of persons prohibited from possessing firearms pursuant to Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title, or Section 8100 or 8103 of the Welfare and Institutions Code, from coming into contact with any firearm that is not secured and from accessing any key, combination, code, or other means to open any of the locking devices described in subdivision (g).

(f) Nothing in this section shall be construed as preventing a local government from enacting an ordinance imposing additional conditions on licensees with regard to agents *or employees*.

(g) For purposes of this article, "secured" means a firearm that is made inoperable in one or more of the following ways:

(1) The firearm is inoperable because it is secured by a firearm safety device listed on the department's roster of approved firearm safety devices pursuant to subdivision (d) of Section 23655.

(2) The firearm is stored in a locked gun safe or long-gun safe that meets the standards for department-approved gun safes set forth in Section 23650.

(3) The firearm is stored in a distinct locked room or area in the building that is used to store firearms, which can only be unlocked by a key, a combination, or similar means.

(4) The firearm is secured with a hardened steel rod or cable that is at least one-eighth of an inch in diameter through the trigger guard of the firearm. The steel rod or cable shall be secured with a hardened steel lock that has

a shackle. The lock and shackle shall be protected or shielded from the use of a boltcutter and the rod or cable shall be anchored in a manner that prevents the removal of the firearm from the premises.

SEC. 8. Sales of Ammunition.

SEC. 8.1. Section 16150 of the Penal Code is amended to read:

16150. (a) ~~As used in Section 30300, "ammunition" means handgun ammunition as defined in Section 16650.~~ *As used in this part, except in subdivision (a) of Section 30305 and in Section 30306, "ammunition" means one or more loaded cartridges consisting of a primed case, propellant, and with one or more projectiles. "Ammunition" does not include blanks.*

(b) As used in subdivision (a) of Section 30305 and in Section 30306, "ammunition" includes, but is not limited to, any bullet, cartridge, magazine, clip, speed loader, autoloader, or projectile capable of being fired from a firearm with a deadly consequence. "Ammunition" does not include blanks.

SEC. 8.2. Section 16151 is added to the Penal Code, to read:

16151. (a) As used in this part, commencing January 1, 2018, "ammunition vendor" means any person, firm, corporation, or other business enterprise that holds a current ammunition vendor license issued pursuant to Section 30385.

(b) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Articles 2 (commencing with Section 30300) and 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4.

SEC. 8.3. Section 16662 of the Penal Code is repealed.

~~16662. As used in this part, "handgun ammunition vendor" means any person, firm, corporation, dealer, or any other business enterprise that is engaged in the retail sale of any handgun ammunition, or that holds itself out as engaged in the business of selling any handgun ammunition.~~

SEC. 8.4. Section 17315 of the Penal Code is amended to read:

17315. As used in ~~Article 3 (commencing with Section 30345)~~ *Articles 2 through 5* of Chapter 1 of Division 10 of Title 4, "vendor" means ~~a~~ *an* ~~handgun~~ ammunition vendor.

SEC. 8.5. Section 30306 of the Penal Code is amended to read:

30306. (a) Any person, corporation, ~~or~~ firm*, or other business enterprise* who supplies, delivers, sells, or gives possession or control of, any ammunition to any person who he or she knows or using reasonable care should know is prohibited from owning, possessing, or having under custody or control, any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

(b) Any person, corporation, firm, or other business enterprise who supplies, delivers, sells, or gives possession or control of, any ammunition to any person whom the person, corporation, firm, or other business enterprise knows or has cause to believe is not the actual purchaser or transferee of the ammunition, with knowledge or cause to believe that the ammunition is to be subsequently sold or transferred to a person who is prohibited from owning, possessing, or having under custody or control any ammunition or reloaded ammunition pursuant to subdivision (a) or (b) of Section 30305, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars ($1,000), or by both that fine and imprisonment.

~~(b)~~ *(c)* The provisions of this section are cumulative and shall not be construed as restricting the application of any other law. However, an act or omission punishable in different ways by this section and another provision of law shall not be punished under more than one provision.

SEC. 8.6. Section 30312 of the Penal Code is amended to read:

30312. (a) ~~Commencing February 1, 2011, the~~ *(1) Commencing January 1, 2018, the sale of ammunition by any party shall be conducted by or processed through a licensed ammunition vendor.*

(2) When neither party to an ammunition sale is a licensed ammunition vendor, the seller shall deliver the ammunition to a vendor to process the transaction. The ammunition vendor shall then promptly and properly deliver the ammunition to the purchaser, if the sale is not prohibited, as if the ammunition were the vendor's own merchandise. If the ammunition vendor cannot legally deliver the ammunition to the purchaser, the vendor shall forthwith return the ammunition to the seller. The ammunition vendor may charge the purchaser an administrative fee to process the transaction, in an amount to be set by the Department of Justice, in addition to any applicable fees that may be charged pursuant to the provisions of this title.

(b) Commencing January 1, 2018, the sale, delivery or transfer of ownership of ~~handgun~~ ammunition *by any party* may only occur in a face-to-face transaction with the *seller,* deliverer, or transferor ~~being provided bona fide evidence of identity from the purchaser or other transferee~~*, provided, however, that ammunition may be purchased or acquired over the Internet or through other means of remote ordering if a licensed ammunition vendor initially receives the ammunition and processes the transaction in compliance with this section and Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of this part.*

~~(b)~~ *(c)* ~~Subdivision~~ *Subdivisions* (a) *and (b)* shall not apply to ~~or affect~~ the sale, delivery, or transfer of ~~handgun~~ ammunition to any of the following:

(1) An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale, delivery, or transfer is for exclusive use by that government agency and, prior to the sale, delivery, or transfer of the ~~handgun~~ ammunition, written authorization from the head of the agency employing the purchaser or transferee is obtained, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency employing the individual.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2*, or sworn federal law enforcement officer,* who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ~~handgun~~ ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list *of exempted federal firearms licensees* maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

(5) A person whose licensed premises are outside this state and who is licensed as a dealer or collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(6) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(7) ~~A handgun~~ *An* ammunition vendor.

(8) A consultant-evaluator.

(9) A person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.

(10) A person who purchases or receives ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

~~(c)~~ *(d)* A violation of this section is a misdemeanor.

SEC. 8.7. Section 30314 is added to the Penal Code, to read:

30314. (a) Commencing January 1, 2018, a resident of this state shall not bring or transport into this state any ammunition that he or she purchased or otherwise obtained from outside of this state unless he or she first has that ammunition delivered to a licensed ammunition vendor for delivery to that resident pursuant to the procedures set forth in Section 30312.

(b) Subdivision (a) does not apply to any of the following:

(1) An ammunition vendor.

(2) A sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(3) An importer or manufacturer of ammunition or firearms who is licensed to engage in business pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) A person who is on the centralized list of exempted federal firearms licensees maintained by the Department of Justice pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6.

(5) A person who is licensed as a collector of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, and who has a current certificate of eligibility issued by the Department of Justice pursuant to Section 26710.

(6) A person who acquired the ammunition from a spouse, registered domestic partner, or immediate family member as defined in Section 16720.

(c) A violation of this section is an infraction for any first time offense, and either an infraction or a misdemeanor for any subsequent offense.

SEC. 8.8. The heading of Article 3 (commencing with Section 30342) of Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code is amended to read:

Article 3. ~~Handgun~~ Ammunition Vendors

SEC. 8.9. Section 30342 is added to the Penal Code, immediately preceding Section 30345, to read:

30342. (a) Commencing January 1, 2018, a valid ammunition vendor license shall be required for any person, firm, corporation, or other business enterprise to sell more than 500 rounds of ammunition in any 30-day period.

(b) A violation of this section is a misdemeanor.

SEC. 8.10. Section 30347 of the Penal Code is amended to read:

30347. *(a) An ammunition vendor shall require any agent or employee who handles, sells, delivers, or has under his or her custody or control any ammunition, to obtain and provide to the vendor a certificate of eligibility from the Department of Justice issued pursuant to Section 26710. On the application for the certificate, the agent or employee shall provide the name and address of the ammunition vendor with whom the person is employed, or the name and California firearms dealer number of the ammunition vendor if applicable.*

(b) The department shall notify the ammunition vendor in the event that the agent or employee who has a certificate of eligibility is or becomes prohibited from possessing ammunition under subdivision (a) of Section 30305 or federal law.

(c) ~~A~~ *An ammunition* vendor shall not permit any *agent or* employee who the vendor knows or reasonably should know is a person described in Chapter 2 (commencing with Section 29800) or Chapter 3 (commencing with Section 29900) of Division 9 of this title or Section 8100 or 8103 of the Welfare and Institutions Code to handle, sell, ~~or~~ deliver*, or have under his or her custody or control, any* ~~handgun~~ ammunition in the course and scope of employment.

SEC. 8.11. Section 30348 is added to the Penal Code, to read:

30348. (a) Except as provided in subdivision (b), the sale of ammunition by a licensed vendor shall be conducted at the location specified in the license.

(b) A vendor may sell ammunition at a gun show or event if the gun show or event is not conducted from any motorized or towed vehicle.

(c) For purposes of this section, "gun show or event" means a function sponsored by any national, state, or local organization, devoted to the collection, competitive use, or other sporting use of firearms, or an organization or association that sponsors functions devoted to the collection, competitive use, or other sporting use of firearms in the community.

(d) Sales of ammunition at a gun show or event shall comply with all applicable laws including Sections 30347, 30350, 30352, and 30360.

SEC. 8.12. Section 30350 of the Penal Code is amended to read:

30350. ~~A~~ *An ammunition* vendor shall not sell or otherwise transfer ownership of, offer for sale or otherwise offer to transfer ownership of, or display for sale or display for transfer of ownership of any ~~handgun~~ ammunition in a manner that allows that ammunition to be accessible to a purchaser or transferee without the assistance of the vendor or an employee of the vendor.

SEC. 8.13. Section 30352 of the Penal Code is amended to read:

30352. (a) Commencing ~~February 1, 2011, a~~ *July 1, 2019, an ammunition* vendor shall not sell or otherwise transfer ownership of any ~~handgun~~ ammunition without, at the time of delivery, legibly recording the following information *on a form to be prescribed by the Department of Justice*:

(1) The date of the sale or other ~~transaction~~ *transfer*.

(2) The purchaser's or transferee's driver's license or other identification number and the state in which it was issued.

(3) The brand, type, and amount of ammunition sold or otherwise transferred.

(4) The purchaser's or transferee's *full name and* signature.

(5) The name of the salesperson who processed the sale or other transaction.

~~(6) The right thumbprint of the purchaser or transferee on the above form.~~

~~(7)~~ *(6)* The purchaser's or transferee's full residential address and telephone number.

~~(8)~~ *(7)* The purchaser's or transferee's date of birth.

(b) Commencing July 1, 2019, an ammunition vendor shall electronically submit to the department the information required by subdivision (a) for all sales and transfers of ownership of ammunition. The department shall retain this information in a database to be known as the Ammunition Purchase Records File. This information shall remain confidential and may be used by the department and those entities specified in, and pursuant to, subdivision (b) or (c) of Section 11105, through the California Law Enforcement Telecommunications System, only for law enforcement purposes. The ammunition vendor shall not use, sell, disclose, or share such information for any other purpose other than the submission required by this subdivision without the express written consent of the purchaser or transferee.

(c) Commencing on July 1, 2019, only those persons listed in this subdivision, or those persons or entities listed in subdivision (e), shall be authorized to purchase ammunition. Prior to delivering any ammunition, an ammunition vendor shall require bona fide evidence of identity to verify that the person who is receiving delivery of the ammunition is a person or entity listed in subdivision (e) or one of the following:

(1) A person authorized to purchase ammunition pursuant to Section 30370.

(2) A person who was approved by the department to receive a firearm from the ammunition vendor, pursuant to Section 28220, if that vendor is a licensed firearms dealer, and the ammunition is delivered to the person in the same transaction as the firearm.

(d) Commencing July 1, 2019, the ammunition vendor shall verify with the department, in a manner prescribed by the department, that the person is authorized to purchase ammunition by comparing the person's ammunition purchase authorization number to the centralized list of authorized ammunition purchasers. If the person is not listed as an authorized ammunition purchaser, the vendor shall deny the sale or transfer.

~~(b)~~ *(e)* ~~Subdivision~~ *Subdivisions* (a) *and (d)* shall not apply to ~~or affect~~ sales or other transfers of ownership of ~~handgun~~ ammunition by ~~handgun~~ ammunition vendors to any of the following, if properly identified:

~~(1) A person licensed pursuant to Sections 26700 to 26915, inclusive.~~

~~(2)~~ *(1)* ~~A handgun~~ *An* ammunition vendor.

~~(3)~~ *(2)* A person who is on the centralized list *of exempted federal firearms licensees* maintained by the department pursuant to Article 6 (commencing with Section 28450) of Chapter 6 of Division 6 of this title.

~~(4)~~ *(3)* A ~~target facility that holds a business or regulatory license~~ *person who purchases or receives ammunition at a target facility holding a business or other regulatory license, provided that the ammunition is at all times kept within the facility's premises.*

~~(5)~~ *(4)* A gunsmith.

~~(6)~~ *(5)* A wholesaler.

~~(7)~~ *(6)* A manufacturer or importer of firearms *or ammunition* licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and the regulations issued pursuant thereto.

~~(8)~~ *(7)* An authorized law enforcement representative of a city, county, city and county, or state or federal government, if the sale or other transfer of ownership is for exclusive use by that government agency, and, prior to the sale, delivery, or transfer of the ~~handgun~~ ammunition, written authorization from the head of the agency authorizing the transaction is presented to the person from whom the purchase, delivery, or transfer is being made. Proper written authorization is defined as verifiable written certification from the head of the agency by which the purchaser, transferee, or person otherwise acquiring ownership is employed, identifying the employee as an individual authorized to conduct the transaction, and authorizing the transaction for the exclusive use of the agency by which that individual is employed.

(8) A properly identified sworn peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or properly identified sworn federal law enforcement officer, who is authorized to carry a firearm in the course and scope of the officer's duties.

(f) (1) Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a full-time paid peace officer who is authorized to carry a firearm in the course and scope of the officer's duties.

(2) The certification shall be delivered to the vendor at the time of purchase or transfer and the purchaser or transferee shall provide bona fide evidence of identity to verify that he or she is the person authorized in the certification.

(3) The vendor shall keep the certification with the record of sale and submit the certification to the department.

(g) The department is authorized to adopt regulations to implement the provisions of this section.

SEC. 8.14. Section 30363 is added to the Penal Code, to read:

30363. Within 48 hours of discovery, an ammunition vendor shall report the loss or theft of any of the following items to the appropriate law enforcement agency in the city, county, or city and county where the vendor's business premises are located:

(1) Any ammunition that is merchandise of the vendor.

(2) Any ammunition that the vendor takes possession of pursuant to Section 30312.

(3) Any ammunition kept at the vendor's place of business.

SEC. 8.15. Article 4 (commencing with Section 30370) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

Article 4. Ammunition Purchase Authorizations

30370. (a) (1) Commencing on January 1, 2019, any person who is 18 years of age or older may apply to the Department of Justice for an ammunition purchase authorization.

(2) The ammunition purchase authorization may be used by the authorized person to purchase or otherwise seek the transfer of ownership of ammunition from an ammunition vendor, as that term is defined in Section 16151, and shall have no other force or effect.

(3) The ammunition purchase authorization shall be valid for four years from July 1, 2019, or the date of issuance, whichever is later, unless it is revoked by the department pursuant to subdivision (b).

(b) The ammunition purchase authorization shall be promptly revoked by the department upon the occurrence of any event which would have disqualified the holder from being issued the ammunition purchase authorization pursuant to this section. If an authorization is revoked, the department shall upon the written request of the holder state the reasons for doing so and provide the holder an appeal process to challenge that revocation.

(c) The department shall create and maintain an internal centralized list of all persons who are authorized to purchase ammunition and shall promptly remove from the list any persons whose authorization was revoked by the department pursuant to this section. The department shall provide access to the list by ammunition vendors for purposes of conducting ammunition sales or other transfers, and shall provide access to the list by law enforcement agencies for law enforcement purposes.

(d) The department shall issue an ammunition purchase authorization to the applicant if all of the following conditions are met:

(1) The applicant is 18 years of age or older.

(2) The applicant is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law.

(3) The applicant pays the fees set forth in subdivision (g).

(e) (1) Upon receipt of an initial or renewal application, the department shall examine its records, and the records it is authorized to request from the State Department of State Hospitals, pursuant to Section 8104 of the Welfare and Institutions Code, and if authorized, the National Instant Criminal Background Check System, as described in Section 922(t) of Title 18 of the United States Code, in order to determine if the applicant is prohibited from possessing or acquiring ammunition under subdivision (a) of Section 30305 or federal law.

(2) The applicant shall be approved or denied within 30 days of the date of the submission of the application to the department. If the application is denied, the department shall state the reasons for doing so and provide the applicant an appeal process to challenge that denial.

(3) If the department is unable to ascertain the final disposition of the application within 30 days of the applicant's submission, the department shall grant authorization to the applicant.

(4) The ammunition purchase authorization number shall be the same as the number on the document presented by the person as bona fide evidence of identity.

(f) The department shall renew a person's ammunition purchase authorization before its expiration, provided that the department determines that the person is not prohibited from acquiring or possessing ammunition under subdivision (a) of Section 30305 or federal law, and provided the applicant timely pays the renewal fee set forth in subdivision (g).

(g) The department may charge a reasonable fee not to exceed fifty dollars ($50) per person for the issuance of an ammunition purchase authorization or the issuance of a renewal authorization, however, the department shall not set these fees any higher than necessary to recover the reasonable, estimated costs to fund the ammunition authorization program provided for in this section and Section 30352, including the enforcement of this program and maintenance of any data systems associated with this program.

(h) The Ammunition Safety and Enforcement Special Fund is hereby created within the State Treasury. All fees received pursuant to this section shall be deposited into the Ammunition Safety and Enforcement Special Fund of the General Fund, and, notwithstanding Section 13340 of the Government Code, are continuously appropriated for purposes of implementing, operating and enforcing the ammunition authorization program provided for in this section and Section 30352, and for repaying the start-up loan provided for in Section 30371.

(i) The department shall annually review and may adjust all fees specified in subdivision (g) for inflation.

(j) The department is authorized to adopt regulations to implement the provisions of this section.

30371. (a) There is hereby appropriated twenty-five million dollars ($25,000,000) from the General Fund as a loan for the start-up costs of implementing, operating and enforcing the provisions of the ammunition authorization program provided for in Sections 30352 and 30370.

(b) For purposes of repaying the loan, the Controller shall, after disbursing moneys necessary to implement, operate and enforce the ammunition authorization program provided for in Sections 30352 and 30370, transfer all proceeds from fees received by the Ammunition Safety and Enforcement Special Fund up to the amount of the loan provided by this section, including interest at the pooled money investment account rate, to the General Fund.

SEC. 8.16. Article 5 (commencing with Section 30385) is added to Chapter 1 of Division 10 of Title 4 of Part 6 of the Penal Code, to read:

Article 5. Ammunition Vendor Licenses

30385. (a) The Department of Justice is authorized to issue ammunition vendor licenses pursuant to this article. The department shall, commencing July 1, 2017, commence accepting applications for ammunition vendor licenses. If an application is denied, the department shall inform the applicant of the reason for denial in writing.

(b) The ammunition vendor license shall be issued in a form prescribed by the department and shall be valid for a period of one year. The department may adopt regulations to administer the application and enforcement provisions of this article. The license shall allow the licensee to sell ammunition at the location specified in the license or at a gun show or event as set forth in Section 30348.

(c) (1) In the case of an entity other than a natural person, the department shall issue the license to the entity, but shall require a responsible person to pass the background check pursuant to Section 30395.

(2) For purposes of this article, "responsible person" means a person having the power to direct the management, policies, and practices of the entity as it pertains to ammunition.

(d) Commencing January 1, 2018, a firearms dealer licensed pursuant to Sections 26700 to 26915, inclusive, shall automatically be deemed a licensed ammunition vendor, provided the dealer complies with the requirements of Article 2 (commencing with Section 30300) and Article 3 (commencing with Section 30342).

30390. (a) The Department of Justice may charge ammunition vendor license applicants a reasonable fee sufficient to reimburse the department for the reasonable, estimated costs of administering the license program, including the enforcement of this program and maintenance of the registry of ammunition vendors.

(b) The fees received by the department pursuant to this article shall be deposited in the Ammunition Vendors Special Account, which is hereby created. Notwithstanding Section 13340 of the Government Code, the revenue in the fund is continuously appropriated for use by the department for the purpose of implementing, administering and enforcing the provisions of this article, and for collecting and maintaining information submitted pursuant to Section 30352.

(c) The revenue in the Firearms Safety and Enforcement Special Fund shall also be available upon appropriation to the department for the purpose of implementing and enforcing the provisions of this article.

30395. (a) The Department of Justice is authorized to issue ammunition vendor licenses to applicants who the department has determined, either as an individual or a responsible person, are not prohibited from possessing, receiving, owning, or purchasing ammunition under subdivision (a) of Section 30305 or federal law, and who provide a copy of any regulatory or business license required by local government, a valid seller's permit issued by the State Board of Equalization, a federal firearms license if the person is federally licensed, and a certificate of eligibility issued by the department.

(b) The department shall keep a registry of all licensed ammunition vendors. Law enforcement agencies shall be provided access to the registry for law enforcement purposes.

(c) An ammunition vendor license is subject to forfeiture for a breach of any of the prohibitions and requirements of Article 2 (commencing with Section 30300) or Article 3 (commencing with Section 30342).

SEC. 9. Nothing in this Act shall preclude or preempt a local ordinance that imposes additional penalties or requirements in regard to the sale or transfer of ammunition.

SEC. 10. Securing Firearms From Prohibited Persons.

SEC. 10.1. Section 1524 of the Penal Code is amended to read:

1524. (a) A search warrant may be issued upon any of the following grounds:

(1) When the property was stolen or embezzled.

(2) When the property or things were used as the means of committing a felony.

(3) When the property or things are in the possession of any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing them from being discovered.

(4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.

(5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.

(6) When there is a warrant to arrest a person.

(7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.

(8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code, or tends to show that a particular person has violated Section 3700.5 of the Labor Code.

(9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.

(10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.

(11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800 or 29805, and the court has made a finding pursuant to paragraph (3) of subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.

~~(15)~~ *(16)* When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

~~(16)~~ *(17)* (A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code.

(ii) The person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 655.1 of the Harbors and Navigation Code.

(iii) The sample will be drawn from the person in a reasonable, medically approved manner.

(B) This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

(b) The property, things, person, or persons described in subdivision (a) may be taken on the warrant from any place, or from any person in whose possession the property or things may be.

(c) Notwithstanding subdivision (a) or (b), no search warrant shall issue for any documentary evidence in the possession or under the control of any person who is a lawyer as defined in Section 950 of the Evidence Code, a physician as defined in Section 990 of the Evidence Code, a psychotherapist as defined in Section 1010 of the Evidence Code, or a member of the clergy as defined in Section 1030 of the Evidence Code, and who is not reasonably suspected of engaging or having engaged in criminal activity related to the documentary evidence for which a warrant is requested unless the following procedure has been complied with:

(1) At the time of the issuance of the warrant, the court shall appoint a special master in accordance with subdivision (d) to accompany the person who will serve the warrant. Upon service of the warrant, the special master shall inform the party served of the specific items being sought and that the party shall have the opportunity to provide the items requested. If the party, in the judgment of the special master, fails to provide the items requested, the special master shall conduct a search for the items in the areas indicated in the search warrant.

(2) (A) If the party who has been served states that an item or items should not be disclosed, they shall be sealed by the special master and taken to court for a hearing.

(B) At the hearing, the party searched shall be entitled to raise any issues that may be raised pursuant to Section 1538.5 as well as a claim that the item or items are privileged, as provided by law. The hearing shall be held in the superior court. The court shall provide sufficient time for the parties to obtain counsel and make motions or present evidence. The hearing shall be held within three days of the service of the warrant unless the court makes a finding that the expedited hearing is impracticable. In that case, the matter shall be heard at the earliest possible time.

(C) If an item or items are taken to court for a hearing, any limitations of time prescribed in Chapter 2 (commencing with Section 799) of Title 3 of Part 2 shall be tolled from the time of the seizure until the final conclusion of the hearing, including any associated writ or appellate proceedings.

(3) The warrant shall, whenever practicable, be served during normal business hours. In addition, the warrant shall be served upon a party who appears to have possession or control of the items sought. If, after reasonable efforts, the party serving the warrant is unable to locate the person, the special master shall seal and return to the court, for

determination by the court, any item that appears to be privileged as provided by law.

(d) (1) As used in this section, a "special master" is an attorney who is a member in good standing of the California State Bar and who has been selected from a list of qualified attorneys that is maintained by the State Bar particularly for the purposes of conducting the searches described in this section. These attorneys shall serve without compensation. A special master shall be considered a public employee, and the governmental entity that caused the search warrant to be issued shall be considered the employer of the special master and the applicable public entity, for purposes of Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, relating to claims and actions against public entities and public employees. In selecting the special master, the court shall make every reasonable effort to ensure that the person selected has no relationship with any of the parties involved in the pending matter. Information obtained by the special master shall be confidential and may not be divulged except in direct response to inquiry by the court.

(2) In any case in which the magistrate determines that, after reasonable efforts have been made to obtain a special master, a special master is not available and would not be available within a reasonable period of time, the magistrate may direct the party seeking the order to conduct the search in the manner described in this section in lieu of the special master.

(e) Any search conducted pursuant to this section by a special master may be conducted in a manner that permits the party serving the warrant or his or her designee to accompany the special master as he or she conducts his or her search. However, that party or his or her designee may not participate in the search nor shall he or she examine any of the items being searched by the special master except upon agreement of the party upon whom the warrant has been served.

(f) As used in this section, "documentary evidence" includes, but is not limited to, writings, documents, blueprints, drawings, photographs, computer printouts, microfilms, X-rays, files, diagrams, ledgers, books, tapes, audio and video recordings, films, and papers of any type or description.

(g) No warrant shall issue for any item or items described in Section 1070 of the Evidence Code.

(h) Notwithstanding any other law, no claim of attorney work product as described in Chapter 4 (commencing with Section 2018.010) of Title 4 of Part 4 of the Code of Civil Procedure shall be sustained where there is probable cause to believe that the lawyer is engaging or has engaged in criminal activity related to the documentary evidence for which a warrant is requested unless it is established at the hearing with respect to the documentary evidence seized under the warrant that the services of the lawyer were not sought or obtained to enable or aid anyone to commit or plan to commit a crime or a fraud.

(i) Nothing in this section is intended to limit an attorney's ability to request an in-camera hearing pursuant to the holding of the Supreme Court of California in People v. Superior Court (Laff) (2001) 25 Cal.4th 703.

(j) In addition to any other circumstance permitting a magistrate to issue a warrant for a person or property in another county, when the property or things to be seized consist of any item or constitute evidence that tends to show a violation of Section 530.5, the magistrate may issue a warrant to search a person or property located in another county if the person whose identifying information was taken or used resides in the same county as the issuing court.

(k) This section shall not be construed to create a cause of action against any foreign or California corporation, its officers, employees, agents, or other specified persons for providing location information.

SEC. 10.2. Section 27930 of the Penal Code is amended to read:

27930. Section 27545 does not apply to deliveries, transfers, or returns of firearms made pursuant to any of the following:

(a) Sections 18000 and 18005.

(b) Division 4 (commencing with Section 18250) of Title 2.

(c) Chapter 2 (commencing with Section 33850) of Division 11.

(d) Sections 34005 and 34010.

(e) Section 29810.

SEC. 10.3. Section 29810 of the Penal Code is amended to read:

29810. (a) For any person who is subject to Section 29800 or 29805, the court shall, at the time judgment is imposed, provide on a form supplied by the Department of Justice, a notice to the defendant prohibited by this chapter from owning, purchasing, receiving, possessing, or having under custody or control, any firearm. The notice shall inform the defendant of the prohibition regarding firearms and include a form to facilitate the transfer of firearms. If the prohibition on owning or possessing a firearm will expire on a date specified in the court order, the form shall inform the defendant that he or she may elect to have his or her firearm transferred to a firearms dealer licensed pursuant to Section 29830.

(b) Failure to provide the notice described in subdivision (a) is not a defense to a violation of this chapter.

(c) This section shall be repealed effective January 1, 2018.

SEC. 10.4. Section 29810 is added to the Penal Code, to read:

29810. (a) (1) Upon conviction of any offense that renders a person subject to Section 29800 or Section 29805, the person shall relinquish all firearms he or she owns, possesses, or has under his or her custody or control in the manner provided in this section.

(2) The court shall, upon conviction of a defendant for an offense described in subdivision (a), instruct the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and shall order the defendant to relinquish all firearms in the manner provided in this section. The court shall also provide the defendant with a Prohibited Persons Relinquishment Form developed by the Department of Justice.

(3) Using the Prohibited Persons Relinquishment Form, the defendant shall name a designee and grant the designee power of attorney for the purpose of transferring or disposing of any firearms. The designee shall be either a local law enforcement agency or a consenting third party

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who is not prohibited from possessing firearms under state or federal law. The designee shall, within the time periods specified in subdivisions (d) and (e), surrender the firearms to the control of a local law enforcement agency, sell the firearms to a licensed firearms dealer, or transfer the firearms for storage to a firearms dealer pursuant to Section 29830.

(b) The Prohibited Persons Relinquishment Form shall do all of the following:

(1) Inform the defendant that he or she is prohibited from owning, purchasing, receiving, possessing, or having under his or her custody or control, any firearms, ammunition, and ammunition feeding devices, including but not limited to magazines, and that he or she shall relinquish all firearms through a designee within the time periods set forth in subdivision (d) or (e) by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830.

(2) Inform the defendant that any cohabitant of the defendant who owns firearms must store those firearms in accordance with Section 25135.

(3) Require the defendant to declare any firearms that he or she owned, possessed, or had under his or her custody or control at the time of his or her conviction, and require the defendant to describe the firearms and provide all reasonably available information about the location of the firearms to enable a designee or law enforcement officials to locate the firearms.

(4) Require the defendant to name a designee, if the defendant declares that he or she owned, possessed, or had under his or her custody or control any firearms at the time of his or her conviction, and grant the designee power of attorney for the purpose of transferring or disposing of all firearms.

(5) Require the designee to indicate his or her consent to the designation and, except a designee that is a law enforcement agency, to declare under penalty of perjury that he or she is not prohibited from possessing any firearms under state or federal law.

(6) Require the designee to state the date each firearm was relinquished and the name of the party to whom it was relinquished, and to attach receipts from the law enforcement officer or licensed firearms dealer who took possession of the relinquished firearms.

(7) Inform the defendant and the designee of the obligation to submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within the time periods specified in subdivisions (d) and (e).

(c) (1) When a defendant is convicted of an offense described in subdivision (a), the court shall immediately assign the matter to a probation officer to investigate whether the Automated Firearms System or other credible information, such as a police report, reveals that the defendant owns, possesses, or has under his or her custody or control any firearms. The assigned probation officer shall receive the Prohibited Persons Relinquishment Form from the defendant or the defendant's designee, as applicable, and ensure that the Automated Firearms System has been properly updated to indicate that the defendant has relinquished those firearms.

(2) Prior to final disposition or sentencing in the case, the assigned probation officer shall report to the court whether the defendant has properly complied with the requirements of this section by relinquishing all firearms identified by the probation officer's investigation or declared by the defendant on the Prohibited Persons Relinquishment Form, and by timely submitting a completed Prohibited Persons Relinquishment Form. The probation officer shall also report to the Department of Justice on a form to be developed by the department whether the Automated Firearms System has been updated to indicate which firearms have been relinquished by the defendant.

(3) Prior to final disposition or sentencing in the case, the court shall make findings concerning whether the probation officer's report indicates that the defendant has relinquished all firearms as required, and whether the court has received a completed Prohibited Persons Relinquishment Form, along with the receipts described in paragraph (1) of subdivision (d) or paragraph (1) of subdivision (e). The court shall ensure that these findings are included in the abstract of judgment. If necessary to avoid a delay in sentencing, the court may make and enter these findings within 14 days of sentencing.

(4) If the court finds probable cause that the defendant has failed to relinquish any firearms as required, the court shall order the search for and removal of any firearms at any location where the judge has probable cause to believe the defendant's firearms are located. The court shall state with specificity the reasons for and scope of the search and seizure authorized by the order.

(5) Failure by a defendant to timely file the completed Prohibited Persons Relinquishment Form with the assigned probation officer shall constitute an infraction punishable by a fine not exceeding one hundred dollars ($100).

(d) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who does not remain in custody at any time within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within five days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer within five days following the conviction, along with the receipts described in paragraph (1) of subdivision (d) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within five days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(e) The following procedures shall apply to any defendant who is a prohibited person within the meaning of paragraph (1) of subdivision (a) who is in custody at any point within the five-day period following conviction:

(1) The designee shall dispose of any firearms the defendant owns, possesses, or has under his or her custody or control within 14 days of the conviction by surrendering the firearms to the control of a local law enforcement agency, selling the firearms to a licensed firearms dealer, or transferring the firearms for storage to a firearms dealer pursuant to Section 29830, in accordance with the wishes of the defendant. Any proceeds from the sale of the firearms shall become the property of the defendant. The law enforcement officer or licensed dealer taking possession of any firearms pursuant to this subdivision shall issue a receipt to the designee describing the firearms and listing any serial number or other identification on the firearms at the time of surrender.

(2) If the defendant owns, possesses, or has under his or her custody or control any firearms to relinquish, the defendant's designee shall submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, within 14 days following conviction, along with the receipts described in paragraph (1) of subdivision (e) showing the defendant's firearms were surrendered to a local law enforcement agency or sold or transferred to a licensed firearms dealer.

(3) If the defendant does not own, possess, or have under his or her custody or control any firearms to relinquish, he or she shall, within 14 days following conviction, submit the completed Prohibited Persons Relinquishment Form to the assigned probation officer, with a statement affirming that he or she has no firearms to be relinquished.

(4) If the defendant is released from custody during the 14 days following conviction and a designee has not yet taken temporary possession of each firearm to be relinquished as described above, the defendant shall, within five days following his or her release, relinquish each firearm required to be relinquished pursuant to paragraph (1) of subdivision (d).

(f) For good cause, the court may shorten or enlarge the time periods specified in subdivisions (d) and (e), enlarge the time period specified in paragraph (3) of subdivision (c), or allow an alternative method of relinquishment.

(g) The defendant shall not be subject to prosecution for unlawful possession of any firearms declared on the Prohibited Persons Relinquishment Form if the firearms are relinquished as required.

(h) Any firearms that would otherwise be subject to relinquishment by a defendant under this section, but which are lawfully owned by a cohabitant of the defendant, shall be exempt from relinquishment, provided the defendant is notified that the cohabitant must store the firearm in accordance with Section 25135.

(i) A law enforcement agency shall update the Automated Firearms System to reflect any firearms that were relinquished to the agency pursuant to this section. A law enforcement agency shall retain a firearm that was relinquished to the agency pursuant to this section for 30 days after the date the firearm was relinquished. After the 30-day period has expired, the firearm is subject to destruction, retention, sale or other transfer by the agency, except upon the certificate of a judge of a court of record, or of the district attorney of the county, that the retention of the firearm is necessary or proper to the ends of justice, or if the defendant provides written notice of an intent to appeal a conviction for an offense described in subdivision (a), or if the Automated Firearms System indicates that the firearm was reported lost or stolen by the lawful owner. If the firearm was reported lost or stolen, the firearm shall be restored to the lawful owner, as soon as its use as evidence has been served, upon the lawful owner's identification of the weapon and proof of ownership, and after the law enforcement agency has complied with Chapter 2 (commencing with Section 33850) of Division 11 of Title 4. The agency shall notify the Department of Justice of the disposition of relinquished firearms pursuant to Section 34010.

(j) A city, county, or city and county, or a state agency may adopt a regulation, ordinance, or resolution imposing a charge equal to its administrative costs relating to the seizure, impounding, storage, or release of a firearm pursuant to Section 33880.

(k) This section shall become operative on January 1, 2018.

SEC. 11. Theft of Firearms.

SEC. 11.1. Section 490.2 of the Penal Code is amended to read:

(a) Notwithstanding Section 487 or any other provision of law defining grand theft, obtaining any property by theft where the value of the money, labor, real or personal property taken does not exceed nine hundred fifty dollars ($950) shall be considered petty theft and shall be punished as a misdemeanor, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 or for an offense requiring registration pursuant to subdivision (c) of Section 290.

(b) This section shall not be applicable to any theft that may be charged as an infraction pursuant to any other provision of law.

(c) This section shall not apply to theft of a firearm.

SEC. 11.2. Section 29805 of the Penal Code is amended to read:

29805. Except as provided in Section 29855 or subdivision (a) of Section 29800, any person who has been convicted of a misdemeanor violation of Section 71, 76, 136.1, 136.5, or 140, subdivision (d) of Section 148, Section 171b, paragraph (1) of subdivision (a) of Section 171c, 171d, 186.28, 240, 241, 242, 243, 243.4, 244.5, 245, 245.5, 246.3, 247, 273.5, 273.6, 417, 417.6, 422, 626.9, 646.9, or 830.95, subdivision (a) of former Section 12100, as that section read at any time from when it was enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to when it was repealed by Section 18 of Chapter 23 of the Statutes of 1994, Section 17500, 17510, 25300, 25800, 30315, or 32625, subdivision (b) or (d) of Section 26100, or Section 27510, or Section 8100, 8101, or 8103 of the Welfare and Institutions Code, any firearm-related offense pursuant to Sections 871.5 and 1001.5 of the Welfare and Institutions Code, *Section 490.2 if the property taken was a firearm,* or of the conduct punished in subdivision (c) of Section 27590, and who, within 10 years of the conviction, owns, purchases, receives, or has in possession or under custody or control, any firearm is guilty of a public offense, which shall be punishable by imprisonment in a county jail not exceeding one year or in the state prison, by a fine not

exceeding one thousand dollars ($1,000), or by both that imprisonment and fine. The court, on forms prescribed by the Department of Justice, shall notify the department of persons subject to this section. However, the prohibition in this section may be reduced, eliminated, or conditioned as provided in Section 29855 or 29860.

SEC. 12. Interim Standards.

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Notwithstanding the Administrative Procedure Act (APA), and in order to facilitate the prompt implementation of the Safety for All Act of 2016, the California Department of Justice may adopt interim standards without compliance with the procedures set forth in the APA. The interim standards shall remain in effect for no more than two years, and may be earlier superseded by regulations adopted pursuant to the APA. "Interim standards" means temporary standards that perform the same function as "emergency regulations" under the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), except that in order to provide greater opportunity for public comment on permanent regulations, the interim standards may remain in force for two years rather than 180 days.

SEC. 13. Amending the Measure.

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This Act shall be broadly construed to accomplish its purposes. The provisions of this measure may be amended by a vote of 55 percent of the members of each house of the Legislature and signed by the Governor so long as such amendments are consistent with and further the intent of this Act.

SEC. 14. Conflicting Measures.

(a) In the event that this measure and another measure on the same subject matter, including but not limited to the regulation of the sale or possession of firearms or ammunition, shall appear on the same statewide 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 than a measure deemed to be in conflict with it, the provisions of this measure shall prevail in their entirety, and 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 measure approved by voters at the same election, and the conflicting ballot measure is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 15. Severability.

If any provision of this measure, or part of this measure, or the application of any provision or part to any person or circumstance, is for any reason held to be invalid or unconstitutional, the remaining provisions, or applications of provisions, shall not be affected, but shall remain in full force and effect, and to this end the provisions of this measure are severable.

SEC. 16. Proponent Standing.

Notwithstanding any other provision of law, if the State, government agency, or any of its officials fail to defend the constitutionality of this Act, following its approval by the voters, any other government employer, the proponent, or in their absence, any citizen of this State shall have the authority to intervene in any court action challenging the constitutionality of this Act for the purpose of defending its constitutionality, whether such action is in trial court, on appeal, or on discretionary review by the Supreme Court of California or the Supreme Court of the United States. The reasonable fees and costs of defending the action shall be a charge on funds appropriated to the Department of Justice, which shall be satisfied promptly.

PROPOSITION 64

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 Business and Professions Code, the Food and Agricultural Code, the Health and Safety Code, the Labor Code, the Revenue and Taxation Code, and the Water 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

SECTION 1. Title.

This measure shall be known and may be cited as the Control, Regulate and Tax Adult Use of Marijuana Act ("the Adult Use of Marijuana Act").

SEC. 2. Findings and Declarations.

A. Currently in California, nonmedical marijuana use is unregulated, untaxed, and occurs without any consumer or environmental protections. The Control, Regulate and Tax Adult Use of Marijuana Act will legalize marijuana for those over 21 years old, protect children, and establish laws to regulate marijuana cultivation, distribution, sale and use, and will protect Californians and the environment from potential dangers. It establishes the Bureau of Marijuana Control within the Department of Consumer Affairs to regulate and license the marijuana industry.

B. Marijuana is currently legal in our state for medical use and illegal for nonmedical use. Abuse of the medical marijuana system in California has long been widespread, but recent bipartisan legislation signed by Governor Jerry Brown is establishing a comprehensive regulatory scheme for medical marijuana. The Control, Regulate and Tax Adult Use of Marijuana Act (hereafter called the Adult Use of Marijuana Act) will consolidate and streamline regulation and taxation for both nonmedical and medical marijuana.

C. Currently, marijuana growth and sale is not being taxed by the State of California, which means our state is missing out on hundreds of millions of dollars in potential tax revenue every year. The Adult Use of Marijuana Act will tax both the growth and sale of marijuana to generate hundreds of millions of dollars annually. The revenues will cover the cost of administering the new law and will provide funds to: invest in public health programs that educate youth to prevent and treat serious substance abuse; train local law enforcement to enforce the new law with a focus on DUI enforcement; invest in communities to reduce the illicit market and create job opportunities; and provide for environmental cleanup and restoration of public lands damaged by illegal marijuana cultivation.

D. Currently, children under the age of 18 can just as easily purchase marijuana on the black market as adults can. By legalizing marijuana, the Adult Use of Marijuana Act will incapacitate the black market, and move marijuana purchases into a legal structure with strict safeguards against children accessing it. The Adult Use of Marijuana Act prohibits the sale of nonmedical marijuana to those

under 21 years old, and provides new resources to educate youth against drug abuse and train local law enforcement to enforce the new law. It bars marijuana businesses from being located within 600 feet of schools and other areas where children congregate. It establishes mandatory and strict packaging and labeling requirements for marijuana and marijuana products. And it mandates that marijuana and marijuana products cannot be advertised or marketed towards children.

E. There are currently no laws governing adult use marijuana businesses to ensure that they operate in accordance with existing California laws. Adult use of marijuana may only be accessed from the unregulated illicit market. The Adult Use of Marijuana Act sets up a comprehensive system governing marijuana businesses at the state level and safeguards local control, allowing local governments to regulate marijuana-related activities, to subject marijuana businesses to zoning and permitting requirements, and to ban marijuana businesses by a vote of the people within a locality.

F. Currently, illegal marijuana growers steal or divert millions of gallons of water without any accountability. The Adult Use of Marijuana Act will create strict environmental regulations to ensure that the marijuana is grown efficiently and legally, to regulate the use of pesticides, to prevent wasting water, and to minimize water usage. The Adult Use of Marijuana Act will crack down on the illegal use of water and punish bad actors, while providing funds to restore lands that have been damaged by illegal marijuana grows. If a business does not demonstrate they are in full compliance with the applicable water usage and environmental laws, they will have their license revoked.

G. Currently, the courts are clogged with cases of non-violent drug offenses. By legalizing marijuana, the Adult Use of Marijuana Act will alleviate pressure on the courts, but continue to allow prosecutors to charge the most serious marijuana-related offenses as felonies, while reducing the penalties for minor marijuana-related offenses as set forth in the act.

H. By bringing marijuana into a regulated and legitimate market, the Adult Use of Marijuana Act creates a transparent and accountable system. This will help police crackdown on the underground black market that currently benefits violent drug cartels and transnational gangs, which are making billions from marijuana trafficking and jeopardizing public safety.

I. The Adult Use of Marijuana Act creates a comprehensive regulatory structure in which every marijuana business is overseen by a specialized agency with relevant expertise. The Bureau of Marijuana Control, housed in the Department of Consumer Affairs, will oversee the whole system and ensure a smooth transition to the legal market, with licenses issued beginning in 2018. The Department of Consumer Affairs will also license and oversee marijuana retailers, distributors, and microbusinesses. The Department of Food and Agriculture will license and oversee marijuana cultivation, ensuring it is environmentally safe. The State Department of Public Health will license and oversee manufacturing and testing, ensuring consumers receive a safe product. The State Board of Equalization will collect the special marijuana taxes, and the Controller will allocate the revenue to administer the new law and provide the funds to critical investments.

J. The Adult Use of Marijuana Act ensures the nonmedical marijuana industry in California will be built around small and medium sized businesses by prohibiting large-scale cultivation licenses for the first five years. The Adult Use of Marijuana Act also protects consumers and small businesses by imposing strict anti-monopoly restrictions for businesses that participate in the nonmedical marijuana industry.

SEC. 3. Purpose and Intent.

The purpose of the Adult Use of Marijuana Act is to establish a comprehensive system to legalize, control and regulate the cultivation, processing, manufacture, distribution, testing, and sale of nonmedical marijuana, including marijuana products, for use by adults 21 years and older, and to tax the commercial growth and retail sale of marijuana. It is the intent of the people in enacting this act to accomplish the following:

(a) Take nonmedical marijuana production and sales out of the hands of the illegal market and bring them under a regulatory structure that prevents access by minors and protects public safety, public health, and the environment.

(b) Strictly control the cultivation, processing, manufacture, distribution, testing and sale of nonmedical marijuana through a system of state licensing, regulation, and enforcement.

(c) Allow local governments to enforce state laws and regulations for nonmedical marijuana businesses and enact additional local requirements for nonmedical marijuana businesses, but not require that they do so for a nonmedical marijuana business to be issued a state license and be legal under state law.

(d) Allow local governments to ban nonmedical marijuana businesses as set forth in this act.

(e) Require track and trace management procedures to track nonmedical marijuana from cultivation to sale.

(f) Require nonmedical marijuana to be comprehensively tested by independent testing services for the presence of contaminants, including mold and pesticides, before it can be sold by licensed businesses.

(g) Require nonmedical marijuana sold by licensed businesses to be packaged in child-resistant containers and be labeled so that consumers are fully informed about potency and the effects of ingesting nonmedical marijuana.

(h) Require licensed nonmedical marijuana businesses to follow strict environmental and product safety standards as a condition of maintaining their license.

(i) Prohibit the sale of nonmedical marijuana by businesses that also sell alcohol or tobacco.

(j) Prohibit the marketing and advertising of nonmedical marijuana to persons younger than 21 years old or near schools or other places where children are present.

(k) Strengthen the state's existing medical marijuana system by requiring patients to obtain by January 1, 2018, a new recommendation from their physician that meets the strict standards signed into law by the Governor in 2015, and by providing new privacy protections for patients who obtain medical marijuana identification cards as set forth in this act.

(*l*) Permit adults 21 years and older to use, possess, purchase and grow nonmedical marijuana within defined limits for use by adults 21 years and older as set forth in this act.

(m) Allow local governments to reasonably regulate the cultivation of nonmedical marijuana for personal use by adults 21 years and older through zoning and other local

laws, and only to ban outdoor cultivation as set forth in this act.

(n) Deny access to marijuana by persons younger than 21 years old who are not medical marijuana patients.

(o) Prohibit the consumption of marijuana in a public place unlicensed for such use, including near K–12 schools and other areas where children are present.

(p) Maintain existing laws making it unlawful to operate a car or other vehicle used for transportation while impaired by marijuana.

(q) Prohibit the cultivation of marijuana on public lands or while trespassing on private lands.

(r) Allow public and private employers to enact and enforce workplace policies pertaining to marijuana.

(s) Tax the growth and sale of marijuana in a way that drives out the illicit market for marijuana and discourages use by minors, and abuse by adults.

(t) Generate hundreds of millions of dollars in new state revenue annually for restoring and repairing the environment, youth treatment and prevention, community investment, and law enforcement.

(u) Prevent illegal production or distribution of marijuana.

(v) Prevent the illegal diversion of marijuana from California to other states or countries or to the illegal market.

(w) Preserve scarce law enforcement resources to prevent and prosecute violent crime.

(x) Reduce barriers to entry into the legal, regulated market.

(y) Require minors who commit marijuana-related offenses to complete drug prevention education or counseling and community service.

(z) Authorize courts to resentence persons who are currently serving a sentence for offenses for which the penalty is reduced by the act, so long as the person does not pose a risk to public safety, and to redesignate or dismiss such offenses from the criminal records of persons who have completed their sentences as set forth in this act.

(aa) Allow industrial hemp to be grown as an agricultural product, and for agricultural or academic research, and regulated separately from the strains of cannabis with higher delta-9 tetrahydrocannabinol concentrations.

SEC. 4. Personal Use.

SEC. 4.1. Section 11018 of the Health and Safety Code is amended to read:

11018. *Marijuana.*

"Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include ~~the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination~~*:*

(a) Industrial hemp, as defined in Section 11018.5; or

(b) The weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

SEC. 4.2. Section 11018.1 is added to the Health and Safety Code, to read:

11018.1. Marijuana Products.

"Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including, but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

SEC. 4.3. Section 11018.2 is added to the Health and Safety Code, to read:

11018.2. Marijuana Accessories.

"Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing marijuana, or for ingesting, inhaling, or otherwise introducing marijuana or marijuana products into the human body.

SEC. 4.4. Section 11362.1 is added to the Health and Safety Code, to read:

11362.1. (a) Subject to Sections 11362.2, 11362.3, 11362.4, and 11362.45, but notwithstanding any other provision of law, it shall be lawful under state and local law, and shall not be a violation of state or local law, for persons 21 years of age or older to:

(1) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than 28.5 grams of marijuana not in the form of concentrated cannabis;

(2) Possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without any compensation whatsoever, not more than eight grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products;

(3) Possess, plant, cultivate, harvest, dry, or process not more than six living marijuana plants and possess the marijuana produced by the plants;

(4) Smoke or ingest marijuana or marijuana products; and

(5) Possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without any compensation whatsoever.

(b) Paragraph (5) of subdivision (a) is intended to meet the requirements of subsection (f) of Section 863 of Title 21 of the United States Code (21 U.S.C. Sec. 863(f)) by authorizing, under state law, any person in compliance with this section to manufacture, possess, or distribute marijuana accessories.

(c) Marijuana and marijuana products involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure, and no conduct deemed lawful by this section shall constitute the basis for detention, search, or arrest.

SEC. 4.5. Section 11362.2 is added to the Health and Safety Code, to read:

11362.2. (a) Personal cultivation of marijuana under paragraph (3) of subdivision (a) of Section 11362.1 is subject to the following restrictions:

(1) A person shall plant, cultivate, harvest, dry, or process plants in accordance with local ordinances, if any, adopted in accordance with subdivision (b).

(2) The living plants and any marijuana produced by the plants in excess of 28.5 grams are kept within the person's private residence, or upon the grounds of that private residence (e.g., in an outdoor garden area), are in a locked space, and are not visible by normal unaided vision from a public place.

(3) Not more than six living plants may be planted, cultivated, harvested, dried, or processed within a single private residence, or upon the grounds of that private residence, at one time.

(b) (1) A city, county, or city and county may enact and enforce reasonable regulations to reasonably regulate the actions and conduct in paragraph (3) of subdivision (a) of Section 11362.1.

(2) Notwithstanding paragraph (1), no city, county, or city and county may completely prohibit persons engaging in the actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 inside a private residence, or inside an accessory structure to a private residence located upon the grounds of a private residence that is fully enclosed and secure.

(3) Notwithstanding paragraph (3) of subdivision (a) of Section 11362.1, a city, county, or city and county may completely prohibit persons from engaging in actions and conduct under paragraph (3) of subdivision (a) of Section 11362.1 outdoors upon the grounds of a private residence.

(4) Paragraph (3) shall become inoperative upon a determination by the California Attorney General that nonmedical use of marijuana is lawful in the State of California under federal law, and an act taken by a city, county, or city and county under paragraph (3) shall be deemed repealed upon the date of such determination by the Attorney General.

(5) For purposes of this section, "private residence" means a house, an apartment unit, a mobile home, or other similar dwelling.

SEC. 4.6. Section 11362.3 is added to the Health and Safety Code, to read:

11362.3. (a) Nothing in Section 11362.1 shall be construed to permit any person to:

(1) Smoke or ingest marijuana or marijuana products in any public place, except in accordance with Section 26200 of the Business and Professions Code.

(2) Smoke marijuana or marijuana products in a location where smoking tobacco is prohibited.

(3) Smoke marijuana or marijuana products within 1,000 feet of a school, day care center, or youth center while children are present at such a school, day care center, or youth center, except in or upon the grounds of a private residence or in accordance with Section 26200 of, or Chapter 3.5 (commencing with Section 19300) of Division 8 of, the Business and Professions Code and only if such smoking is not detectable by others on the grounds of such a school, day care center, or youth center while children are present.

(4) Possess an open container or open package of marijuana or marijuana products while driving, operating, or riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(5) Possess, smoke or ingest marijuana or marijuana products in or upon the grounds of a school, day care center, or youth center while children are present.

(6) Manufacture concentrated cannabis using a volatile solvent, unless done in accordance with a license under Chapter 3.5 (commencing with Section 19300) of Division 8 of, or Division 10 of, the Business and Professions Code.

(7) Smoke or ingest marijuana or marijuana products while driving, operating a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation.

(8) Smoke or ingest marijuana or marijuana products while riding in the passenger seat or compartment of a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation except as permitted on a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation that is operated in accordance with Section 26200 of the Business and Professions Code and while no persons under the age of 21 years are present.

(b) For purposes of this section, "day care center" has the same meaning as in Section 1596.76.

(c) For purposes of this section, "smoke" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(d) For purposes of this section, "volatile solvent" means volatile organic compounds, including: (1) explosive gases, such as Butane, Propane, Xylene, Styrene, Gasoline, Kerosene, O_2 or H_2; and (2) dangerous poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(e) For purposes of this section, "youth center" has the same meaning as in Section 11353.1.

(f) Nothing in this section shall be construed or interpreted to amend, repeal, affect, restrict, or preempt laws pertaining to the Compassionate Use Act of 1996.

SEC. 4.7. Section 11362.4 is added to the Health and Safety Code, to read:

11362.4. (a) A person who engages in the conduct described in paragraph (1) of subdivision (a) of Section 11362.3 is guilty of an infraction punishable by no more than a one hundred dollar ($100) fine; provided, however, that persons under the age of 18 shall instead be required to complete four hours of a drug education program or counseling, and up to 10 hours of community service, over a period not to exceed 60 days once the drug education program or counseling and community service opportunity are made available to the person.

(b) A person who engages in the conduct described in paragraphs (2) through (4) of subdivision (a) of Section 11362.3 shall be guilty of an infraction punishable by no more than a two-hundred-fifty-dollar ($250) fine,

unless such activity is otherwise permitted by state and local law; provided, however, that persons under the age of 18 shall instead be required to complete four hours of drug education or counseling, and up to 20 hours of community service, over a period not to exceed 90 days once the drug education program or counseling and community service opportunity are made available to the person.

(c) A person who engages in the conduct described in paragraph (5) of subdivision (a) of Section 11362.3 shall be subject to the same punishment as provided under subdivision (c) or (d) of Section 11357.

(d) A person who engages in the conduct described in paragraph (6) of subdivision (a) of Section 11362.3 shall be subject to punishment under Section 11379.6.

(e) A person who violates the restrictions in subdivision (a) of Section 11362.2 is guilty of an infraction punishable by no more than a two-hundred-fifty-dollar ($250) fine.

(f) Notwithstanding subdivision (e), a person under the age of 18 who violates the restrictions in subdivision (a) of Section 11362.2 shall be punished under subdivision (a) of Section 11358.

(g) (1) The drug education program or counseling hours required by this section shall be mandatory unless the court makes a finding that such a program or counseling is unnecessary for the person or that a drug education program or counseling is unavailable.

(2) The drug education program required by this section for persons under the age of 18 must be free to participants and provide at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

(h) Upon a finding of good cause, the court may extend the time for a person to complete the drug education or counseling, and community service required under this section.

SEC. 4.8. Section 11362.45 is added to the Health and Safety Code, to read:

11362.45. Nothing in Section 11362.1 shall be construed or interpreted to amend, repeal, affect, restrict, or preempt:

(a) Laws making it unlawful to drive or operate a vehicle, boat, vessel, or aircraft, while smoking, ingesting, or impaired by, marijuana or marijuana products, including, but not limited to, subdivision (e) of Section 23152 of the Vehicle Code, or the penalties prescribed for violating those laws.

(b) Laws prohibiting the sale, administering, furnishing, or giving away of marijuana, marijuana products, or marijuana accessories, or the offering to sell, administer, furnish, or give away marijuana, marijuana products, or marijuana accessories to a person younger than 21 years of age.

(c) Laws prohibiting a person younger than 21 years of age from engaging in any of the actions or conduct otherwise permitted under Section 11362.1.

(d) Laws pertaining to smoking or ingesting marijuana or marijuana products on the grounds of, or within, any facility or institution under the jurisdiction of the Department of Corrections and Rehabilitation or the Division of Juvenile Justice, or on the grounds of, or within, any other facility or institution referenced in Section 4573 of the Penal Code.

(e) Laws providing that it would constitute negligence or professional malpractice to undertake any task while impaired from smoking or ingesting marijuana or marijuana products.

(f) The rights and obligations of public and private employers to maintain a drug and alcohol free workplace or require an employer to permit or accommodate the use, consumption, possession, transfer, display, transportation, sale, or growth of marijuana in the workplace, or affect the ability of employers to have policies prohibiting the use of marijuana by employees and prospective employees, or prevent employers from complying with state or federal law.

(g) The ability of a state or local government agency to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 within a building owned, leased, or occupied by the state or local government agency.

(h) The ability of an individual or private entity to prohibit or restrict any of the actions or conduct otherwise permitted under Section 11362.1 on the individual's or entity's privately owned property.

(i) Laws pertaining to the Compassionate Use Act of 1996.

SEC. 5. Use of Marijuana for Medical Purposes.

SEC. 5.1. Section 11362.712 is added to the Health and Safety Code, to read:

11362.712. (a) Commencing on January 1, 2018, a qualified patient must possess a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code. Failure to comply with this requirement shall not, however, affect any of the protections provided to patients or their primary caregivers by Section 11362.5.

(b) A county health department or the county's designee shall develop protocols to ensure that, commencing upon January 1, 2018, all identification cards issued pursuant to Section 11362.71 are supported by a physician's recommendation that complies with Article 25 (commencing with Section 2525) of Chapter 5 of Division 2 of the Business and Professions Code.

SEC. 5.2. Section 11362.713 is added to the Health and Safety Code, to read:

11362.713. (a) Information identifying the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, received and contained in the records of the State Department of Public Health and by any county public health department are hereby deemed "medical information" within the meaning of the Confidentiality of Medical Information Act (Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code) and shall not be disclosed by the department or by any county public health department except in accordance with the restrictions on disclosure of individually identifiable information under the Confidentiality of Medical Information Act.

(b) Within 24 hours of receiving any request to disclose the name, address, or social security number of a patient, their medical condition, or the name of their primary caregiver, the State Department of Public Health or any county public health agency shall contact the patient and inform the patient of the request and if the request was made in writing, a copy of the request.

(c) Notwithstanding Section 56.10 of the Civil Code, neither the State Department of Public Health, nor any county public health agency, shall disclose, nor shall they be ordered by agency or court to disclose, the names, addresses, or social security numbers of patients, their medical conditions, or the names of their primary caregivers, sooner than the 10th day after which the patient whose records are sought to be disclosed has been contacted.

(d) No identification card application system or database used or maintained by the State Department of Public Health or by any county department of public health or the county's designee as provided in Section 11362.71 shall contain any personal information of any qualified patient, including, but not limited to, the patient's name, address, social security number, medical conditions, or the names of their primary caregivers. Such an application system or database may only contain a unique user identification number, and when that number is entered, the only information that may be provided is whether the card is valid or invalid.

SEC. 5.3. Section 11362.755 of the Health and Safety Code is amended to read:

11362.755. (a) ~~The department shall establish application and renewal fees for persons seeking to obtain or renew identification cards that are sufficient to cover the expenses incurred by the department, including the startup cost, the cost of reduced fees for Medi-Cal beneficiaries in accordance with subdivision (b), the cost of identifying and developing a cost-effective Internet Web-based system, and the cost of maintaining the 24-hour toll-free telephone number.~~ Each county health department or the county's designee may charge ~~an additional~~ *a* fee for all costs incurred by the county or the county's designee for administering the program pursuant to this article.

(b) In no event shall the amount of the fee charged by a county health department exceed one hundred dollars ($100) per application or renewal.

~~(b)~~ *(c)* Upon satisfactory proof of participation and eligibility in the Medi-Cal program, a Medi-Cal beneficiary shall receive a 50 percent reduction in the fees established pursuant to this section.

(d) Upon satisfactory proof that a qualified patient, or the legal guardian of a qualified patient under the age of 18, is a medically indigent adult who is eligible for and participates in the County Medical Services Program, the fee established pursuant to this section shall be waived.

(e) In the event the fees charged and collected by a county health department are not sufficient to pay for the administrative costs incurred in discharging the county health department's duties with respect to the mandatory identification card system, the Legislature, upon request by the county health department, shall reimburse the county health department for those reasonable administrative costs in excess of the fees charged and collected by the county health department.

SEC. 5.4. Section 11362.84 is added to the Health and Safety Code, to read:

11362.84. The status and conduct of a qualified patient who acts in accordance with the Compassionate Use Act shall not, by itself, be used to restrict or abridge custodial or parental rights to minor children in any action or proceeding under the jurisdiction of family or juvenile court.

SEC. 5.5. Section 11362.85 is added to the Health and Safety Code, to read:

11362.85. Upon a determination by the California Attorney General that the federal schedule of controlled substances has been amended to reclassify or declassify marijuana, the Legislature may amend or repeal the provisions of the Health and Safety Code, as necessary, to conform state law to such changes in federal law.

SEC. 6. Marijuana Regulation and Safety.

SEC. 6.1. Division 10 (commencing with Section 26000) is added to the Business and Professions Code, to read:

DIVISION 10. MARIJUANA

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

26000. (a) The purpose and intent of this division is to establish a comprehensive system to control and regulate the cultivation, distribution, transport, storage, manufacturing, processing, and sale of nonmedical marijuana and marijuana products for adults 21 years of age and over.

(b) In the furtherance of subdivision (a), this division expands the power and duties of the existing state agencies responsible for controlling and regulating the medical cannabis industry under Chapter 3.5 (commencing with Section 19300) of Division 8 to include the power and duty to control and regulate the commercial nonmedical marijuana industry.

(c) The Legislature may, by majority vote, enact laws to implement this division, provided such laws are consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

26001. For purposes of this division, the following definitions shall apply:

(a) "Applicant" means the following:

(1) The owner or owners of a proposed licensee. "Owner" means all persons having (A) an aggregate ownership interest (other than a security interest, lien, or encumbrance) of 20 percent or more in the licensee and (B) the power to direct or cause to be directed, the management or control of the licensee.

(2) If the applicant is a publicly traded company, "owner" includes the chief executive officer and any member of the board of directors and any person or entity with an aggregate ownership interest in the company of 20 percent or more. If the applicant is a nonprofit entity, "owner" means both the chief executive officer and any member of the board of directors.

(b) "Bureau" means the Bureau of Marijuana Control within the Department of Consumer Affairs.

(c) "Child resistant" means designed or constructed to be significantly difficult for children under five years of age to open, and not difficult for normal adults to use properly.

(d) "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana and marijuana products as provided for in this division.

(e) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of marijuana.

(f) "Customer" means a natural person 21 years of age or over.

(g) "Day care center" shall have the same meaning as in Section 1596.76 of the Health and Safety Code.

(h) "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

(i) "Director" means the Director of the Department of Consumer Affairs.

(j) "Distribution" means the procurement, sale, and transport of marijuana and marijuana products between entities licensed pursuant to this division.

(k) "Fund" means the Marijuana Control Fund established pursuant to Section 26210.

(l) "Kind" means applicable type or designation regarding a particular marijuana variant or marijuana product type, including, but not limited to, strain name or other grower trademark, or growing area designation.

(m) "License" means a state license issued under this division.

(n) "Licensee" means any person or entity holding a license under this division.

(o) "Licensing authority" means the state agency responsible for the issuance, renewal, or reinstatement of the license, or the state agency authorized to take disciplinary action against the licensee.

(p) "Local jurisdiction" means a city, county, or city and county.

(q) "Manufacture" means to compound, blend, extract, infuse, or otherwise make or prepare a marijuana product.

(r) "Manufacturer" means a person that conducts the production, preparation, propagation, or compounding of marijuana or marijuana products either directly or indirectly or by extraction methods, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis at a fixed location that packages or repackages marijuana or marijuana products or labels or re-labels its container, that holds a state license pursuant to this division.

(s) "Marijuana" has the same meaning as in Section 11018 of the Health and Safety Code, except that it does not include marijuana that is cultivated, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.

(t) "Marijuana accessories" has the same meaning as in Section 11018.2 of the Health and Safety Code.

(u) "Marijuana products" has the same meaning as in Section 11018.1 of the Health and Safety Code, except that it does not include marijuana products manufactured, processed, transported, distributed, or sold for medical purposes under Chapter 3.5 (commencing with Section 19300) of Division 8.

(v) "Nursery" means a licensee that produces only clones, immature plants, seeds, and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.

(w) "Operation" means any act for which licensure is required under the provisions of this division, or any commercial transfer of marijuana or marijuana products.

(x) "Package" means any container or receptacle used for holding marijuana or marijuana products.

(y) "Person" includes any individual, firm, copartnership, joint venture, association, corporation, limited liability company, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular.

(z) "Purchaser" means the customer who is engaged in a transaction with a licensee for purposes of obtaining marijuana or marijuana products.

(aa) "Sell," "sale," and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of the same and soliciting or receiving an order for the same, but does not include the return of marijuana or marijuana products by a licensee to the licensee from whom such marijuana or marijuana product was purchased.

(bb) "Testing service" means a laboratory, facility, or entity in the state, that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility, or entity, and that is both of the following:

(1) Accredited by an accrediting body that is independent from all other persons involved in commercial marijuana activity in the state.

(2) Registered with the State Department of Public Health.

(cc) "Unique identifier" means an alphanumeric code or designation used for reference to a specific plant on a licensed premises.

(dd) "Unreasonably impracticable" means that the measures necessary to comply with the regulations require such a high investment of risk, money, time, or any other resource or asset, that the operation of a marijuana establishment is not worthy of being carried out in practice by a reasonably prudent business person.

(ee) "Youth center" shall have the same meaning as in Section 11353.1 of the Health and Safety Code.

Chapter 2. Administration

26010. (a) The Bureau of Medical Marijuana Regulation established in Section 19302 is hereby renamed the Bureau of Marijuana Control. The director shall administer and enforce the provisions of this division in addition to the provisions of Chapter 3.5 (commencing with Section 19300) of Division 8. The director shall have the same power and authority as provided by subdivisions (b) and (c) of Section 19302.1 for purposes of this division.

(b) The bureau and the director shall succeed to and are vested with all the duties, powers, purposes, responsibilities, and jurisdiction vested in the Bureau of Medical Marijuana Regulation under Chapter 3.5 (commencing with Section 19300) of Division 8.

(c) In addition to the powers, duties, purposes, responsibilities, and jurisdiction referenced in subdivision (b), the bureau shall heretofore have the power, duty, purpose, responsibility, and jurisdiction to regulate commercial marijuana activity as provided in this division.

(d) Upon the effective date of this section, whenever "Bureau of Medical Marijuana Regulation" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the bureau.

26011. Neither the chief of the bureau nor any member of the Marijuana Control Appeals Panel established under Section 26040 shall do any of the following:

(a) Receive any commission or profit whatsoever, directly or indirectly, from any person applying for or receiving any license or permit under this division or Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) Engage or have any interest in the sale or any insurance covering a licensee's business or premises.

(c) Engage or have any interest in the sale of equipment for use upon the premises of a licensee engaged in commercial marijuana activity.

(d) Knowingly solicit any licensee for the purchase of tickets for benefits or contributions for benefits.

(e) Knowingly request any licensee to donate or receive money, or any other thing of value, for the benefit of any person whatsoever.

26012. (a) It being a matter of statewide concern, except as otherwise authorized in this division:

(1) The Department of Consumer Affairs shall have the exclusive authority to create, issue, renew, discipline, suspend, or revoke licenses for the transportation, storage unrelated to manufacturing activities, distribution, and sale of marijuana within the state.

(2) The Department of Food and Agriculture shall administer the provisions of this division related to and associated with the cultivation of marijuana. The Department of Food and Agriculture shall have the authority to create, issue, and suspend or revoke cultivation licenses for violations of this division.

(3) The State Department of Public Health shall administer the provisions of this division related to and associated with the manufacturing and testing of marijuana. The State Department of Public Health shall have the authority to create, issue, and suspend or revoke manufacturing and testing licenses for violations of this division.

(b) The licensing authorities and the bureau shall have the authority to collect fees in connection with activities they regulate concerning marijuana. The bureau may create licenses in addition to those identified in this division that the bureau deems necessary to effectuate its duties under this division.

(c) Licensing authorities shall begin issuing licenses under this division by January 1, 2018.

26013. (a) Licensing authorities shall make and prescribe reasonable rules and regulations as may be necessary to implement, administer and enforce their respective duties under this division in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Such rules and regulations shall be consistent with the purposes and intent of the Control, Regulate and Tax Adult Use of Marijuana Act.

(b) Licensing authorities may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce their respective duties under this division. Any emergency regulation prescribed, adopted or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

(c) Regulations issued under this division shall be necessary to achieve the purposes of this division, based on best available evidence, and shall mandate only commercially feasible procedures, technology, or other requirements, and shall not unreasonably restrain or inhibit the development of alternative procedures or technology to achieve the same substantive requirements, nor shall such regulations make compliance unreasonably impracticable.

26014. (a) The bureau shall convene an advisory committee to advise the bureau and licensing authorities on the development of standards and regulations pursuant to this division, including best practices and guidelines that protect public health and safety while ensuring a regulated environment for commercial marijuana activity that does not impose such unreasonably impracticable barriers so as to perpetuate, rather than reduce and eliminate, the illicit market for marijuana.

(b) The advisory committee members shall include, but not be limited to, representatives of the marijuana industry, representatives of labor organizations, appropriate state and local agencies, public health experts, and other subject matter experts, including representatives from the Department of Alcoholic Beverage Control, with expertise in regulating commercial activity for adult-use intoxicating substances. The advisory committee members shall be determined by the director.

(c) Commencing on January 1, 2019, the advisory committee shall publish an annual public report describing its activities including, but not limited to, the recommendations the advisory committee made to the bureau and licensing authorities during the immediately preceding calendar year and whether those recommendations were implemented by the bureau or licensing authorities.

26015. A licensing authority may make or cause to be made such investigation as it deems necessary to carry out its duties under this division.

26016. For any hearing held pursuant to this division, except a hearing held under Chapter 4 (commencing with Section 26040), a licensing authority may delegate the power to hear and decide to an administrative law judge. Any hearing before an administrative law judge shall be pursuant to the procedures, rules, and limitations prescribed in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

26017. In any hearing before a licensing authority pursuant to this division, the licensing authority may pay any person appearing as a witness at the hearing at the request of the licensing authority pursuant to a subpoena, his or her actual, necessary, and reasonable travel, food, and lodging expenses, not to exceed the amount authorized for state employees.

26018. A licensing authority may on its own motion at any time before a penalty assessment is placed into effect, and without any further proceedings, review the penalty, but such review shall be limited to its reduction.

Chapter 3. Enforcement

26030. Grounds for disciplinary action include:

(a) Failure to comply with the provisions of this division or any rule or regulation adopted pursuant to this division.

(b) Conduct that constitutes grounds for denial of licensure pursuant to Chapter 3 (commencing with Section 490) of Division 1.5.

(c) Any other grounds contained in regulations adopted by a licensing authority pursuant to this division.

(d) Failure to comply with any state law including, but not limited to, the payment of taxes as required under the Revenue and Taxation Code, except as provided for in this division or other California law.

(e) Knowing violations of any state or local law, ordinance, or regulation conferring worker protections or legal rights on the employees of a licensee.

(f) Failure to comply with the requirement of a local ordinance regulating commercial marijuana activity.

(g) The intentional and knowing sale of marijuana or marijuana products by a licensee to a person under the legal age to purchase or possess.

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26031. Each licensing authority may suspend or revoke licenses, after proper notice and hearing to the licensee, if the licensee is found to have committed any of the acts or omissions constituting grounds for disciplinary action. The disciplinary proceedings under this chapter shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the director of each licensing authority shall have all the powers granted therein.

26032. Each licensing authority may take disciplinary action against a licensee for any violation of this division when the violation was committed by the licensee's agent or employee while acting on behalf of the licensee or engaged in commercial marijuana activity.

26033. Upon suspension or revocation of a license, the licensing authority shall inform the bureau. The bureau shall then inform all other licensing authorities.

26034. Accusations against licensees under this division shall be filed within the same time limits as specified in Section 19314 or as otherwise provided by law.

26035. The director shall designate the persons employed by the Department of Consumer Affairs for purposes of the administration and enforcement of this division. The director shall ensure that a sufficient number of employees are qualified peace officers for purposes of enforcing this division.

26036. Nothing in this division shall be interpreted to supersede or limit state agencies from exercising their existing enforcement authority, including, but not limited to, under the Fish and Game Code, the Food and Agricultural Code, the Government Code, the Health and Safety Code, the Public Resources Code, the Water Code, or the application of those laws.

26037. (a) The actions of a licensee, its employees, and its agents that are (1) permitted under a license issued under this division and any applicable local ordinances and (2) conducted in accordance with the requirements of this division and regulations adopted pursuant to this division, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

(b) The actions of a person who, in good faith, allows his or her property to be used by a licensee, its employees, and its agents, as permitted pursuant to a state license and any applicable local ordinances, are not unlawful under state law and shall not be an offense subject to arrest, prosecution, or other sanction under state law, or be subject to a civil fine or be a basis for seizure or forfeiture of assets under state law.

26038. (a) A person engaging in commercial marijuana activity without a license required by this division shall be subject to civil penalties of up to three times the amount of the license fee for each violation, and the court may order the destruction of marijuana associated with that violation in accordance with Section 11479 of the Health and Safety Code. Each day of operation shall constitute a separate violation of this section. All civil penalties imposed and collected pursuant to this section by a licensing authority shall be deposited into the General Fund except as provided in subdivision (b).

(b) If an action for civil penalties is brought against a licensee pursuant to this division by the Attorney General on behalf of the people, the penalty collected shall be deposited into the General Fund. If the action is brought by a district attorney or county counsel, the penalty shall first be used to reimburse the district attorney or county counsel for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund. If the action is brought by a city attorney or city prosecutor, the penalty collected shall first be used to reimburse the city attorney or city prosecutor for the costs of bringing the action for civil penalties, with the remainder, if any, to be deposited into the General Fund.

(c) Notwithstanding subdivision (a), criminal penalties shall continue to apply to an unlicensed person engaging in commercial marijuana activity in violation of this division.

Chapter 4. Appeals

26040. (a) There is established in state government a Marijuana Control Appeals Panel which shall consist of three members appointed by the Governor and subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his or her initial appointment, shall be a resident of a different county from the one in which either of the other members resides. Members of the panel shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) The members of the panel may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty, corruption or incompetency.

(c) A concurrent resolution for the removal of any member of the panel may be introduced in the Legislature only if 5 Members of the Senate, or 10 Members of the Assembly, join as authors.

26041. All personnel of the panel shall be appointed, employed, directed, and controlled by the panel consistent with state civil service requirements. The director shall furnish the equipment, supplies, and housing necessary for the authorized activities of the panel and shall perform

such other mechanics of administration as the panel and the director may agree upon.

26042. The panel shall adopt procedures for appeals similar to the procedures used in Article 3 (commencing with Section 23075) and Article 4 (commencing with Section 23080) of Chapter 1.5 of Division 9 of the Business and Professions Code. Such procedures shall be adopted 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).

26043. (a) When any person aggrieved thereby appeals from a decision of the bureau or any licensing authority ordering any penalty assessment, issuing, denying, transferring, conditioning, suspending or revoking any license provided for under this division, the panel shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the panel shall not receive evidence in addition to that considered by the bureau or the licensing authority.

(b) Review by the panel of a decision of the bureau or a licensing authority shall be limited to the following questions:

(1) Whether the bureau or any licensing authority has proceeded without or in excess of its jurisdiction.

(2) Whether the bureau or any licensing authority has proceeded in the manner required by law.

(3) Whether the decision is supported by the findings.

(4) Whether the findings are supported by substantial evidence in the light of the whole record.

26044. (a) In appeals where the panel finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the bureau or licensing authority, it may enter an order remanding the matter to the bureau or licensing authority for reconsideration in the light of such evidence.

(b) Except as provided in subdivision (a), in all appeals, the panel shall enter an order either affirming or reversing the decision of the bureau or licensing authority. When the order reverses the decision of the bureau or licensing authority, the board may direct the reconsideration of the matter in the light of its order and may direct the bureau or licensing authority to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the bureau or licensing authority.

26045. Orders of the panel shall be subject to judicial review under Section 1094.5 of the Code of Civil Procedure upon petition by the bureau or licensing authority or any party aggrieved by such order.

Chapter 5. Licensing

26050. (a) The license classification pursuant to this division shall, at a minimum, be as follows:

(1) Type 1—Cultivation; Specialty outdoor; Small.

(2) Type 1A—Cultivation; Specialty indoor; Small.

(3) Type 1B—Cultivation; Specialty mixed-light; Small.

(4) Type 2—Cultivation; Outdoor; Small.

(5) Type 2A—Cultivation; Indoor; Small.

(6) Type 2B—Cultivation; Mixed-light; Small.

(7) Type 3—Cultivation; Outdoor; Medium.

(8) Type 3A—Cultivation; Indoor; Medium.

(9) Type 3B—Cultivation; Mixed-light; Medium.

(10) Type 4—Cultivation; Nursery.

(11) Type 5—Cultivation; Outdoor; Large.

(12) Type 5A—Cultivation; Indoor; Large.

(13) Type 5B—Cultivation; Mixed-light; Large.

(14) Type 6—Manufacturer 1.

(15) Type 7—Manufacturer 2.

(16) Type 8—Testing.

(17) Type 10—Retailer.

(18) Type 11—Distributor.

(19) Type 12—Microbusiness.

(b) All licenses issued under this division shall bear a clear designation indicating that the license is for commercial marijuana activity as distinct from commercial medical cannabis activity licensed under Chapter 3.5 (commencing with Section 19300) of Division 8. Examples of such a designation include, but are not limited to, "Type 1—Nonmedical," or "Type 1NM."

(c) A license issued pursuant to this division shall be valid for 12 months from the date of issuance. The license may be renewed annually.

(d) Each licensing authority shall establish procedures for the issuance and renewal of licenses.

(e) Notwithstanding subdivision (c), a licensing authority may issue a temporary license for a period of less than 12 months. This subdivision shall cease to be operative on January 1, 2019.

26051. (a) In determining whether to grant, deny, or renew a license authorized under this division, a licensing authority shall consider factors reasonably related to the determination, including, but not limited to, whether it is reasonably foreseeable that issuance, denial, or renewal of the license could:

(1) Allow unreasonable restraints on competition by creation or maintenance of unlawful monopoly power;

(2) Perpetuate the presence of an illegal market for marijuana or marijuana products in the state or out of the state;

(3) Encourage underage use or adult abuse of marijuana or marijuana products, or illegal diversion of marijuana or marijuana products out of the state;

(4) Result in an excessive concentration of licensees in a given city, county, or both;

(5) Present an unreasonable risk of minors being exposed to marijuana or marijuana products; or

(6) Result in violations of any environmental protection laws.

(b) A licensing authority may deny a license or renewal of a license based upon the considerations in subdivision (a).

(c) For purposes of this section, "excessive concentration" means when the premises for a retail license, microbusiness license, or a license issued under Section 26070.5 is located in an area where either of the following conditions exist:

(1) The ratio of a licensee to population in the census tract or census division in which the applicant premises are located exceeds the ratio of licensees to population in

the county in which the applicant premises are located, unless denial of the application would unduly limit the development of the legal market so as to perpetuate the illegal market for marijuana or marijuana products.

(2) The ratio of retail licenses, microbusiness licenses, or licenses under Section 26070.5 to population in the census tract, division or jurisdiction exceeds that allowable by local ordinance adopted under Section 26200.

26052. (a) No licensee shall perform any of the following acts, or permit any such acts to be performed by any employee, agent, or contractor of such licensee:

(1) Make any contract in restraint of trade in violation of Section 16600;

(2) Form a trust or other prohibited organization in restraint of trade in violation of Section 16720;

(3) Make a sale or contract for the sale of marijuana or marijuana products, or to fix a price charged therefor, or discount from, or rebate upon, such price, on the condition, agreement or understanding that the consumer or purchaser thereof shall not use or deal in the goods, merchandise, machinery, supplies, commodities, or services of a competitor or competitors of such seller, where the effect of such sale, contract, condition, agreement or understanding may be to substantially lessen competition or tend to create a monopoly in any line of trade or commerce;

(4) Sell any marijuana or marijuana products at less than cost for the purpose of injuring competitors, destroying competition, or misleading or deceiving purchasers or prospective purchasers;

(5) Discriminate between different sections, communities, or cities or portions thereof, or between different locations in such sections, communities, cities or portions thereof in this state, by selling or furnishing marijuana or marijuana products at a lower price in one section, community, or city or any portion thereof, or in one location in such section, community, or city or any portion thereof, than in another, for the purpose of injuring competitors or destroying competition; or

(6) Sell any marijuana or marijuana products at less than the cost thereof to such vendor, or to give away any article or product for the purpose of injuring competitors or destroying competition.

(b) Any person who, either as director, officer or agent of any firm or corporation, or as agent of any person, violates the provisions of this chapter, assists or aids, directly or indirectly, in such violation is responsible therefor equally with the person, firm or corporation for which such person acts.

(c) A licensing authority may enforce this section by appropriate regulation.

(d) Any person or trade association may bring an action to enjoin and restrain any violation of this section for the recovery of damages.

26053. (a) The bureau and licensing authorities may issue licenses under this division to persons or entities that hold licenses under Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) Notwithstanding subdivision (a), a person or entity that holds a state testing license under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 is prohibited from licensure for any other activity, except testing, as authorized under this division.

(c) Except as provided in subdivision (b), a person or entity may apply for and be issued more than one license under this division.

26054. (a) A licensee shall not also be licensed as a retailer of alcoholic beverages under Division 9 (commencing with Section 23000) or of tobacco products.

(b) No licensee under this division shall be located within a 600-foot radius of a school providing instruction in kindergarten or any grades 1 through 12, day care center, or youth center that is in existence at the time the license is issued, unless a licensing authority or a local jurisdiction specifies a different radius. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.

(c) It shall be lawful under state and local law, and shall not be a violation of state or local law, for a business engaged in the manufacture of marijuana accessories to possess, transport, purchase or otherwise obtain small amounts of marijuana or marijuana products as necessary to conduct research and development related to such marijuana accessories, provided such marijuana and marijuana products are obtained from a person or entity licensed under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 permitted to provide or deliver such marijuana or marijuana products.

26054.1. (a) No licensing authority shall issue or renew a license to any person that cannot demonstrate continuous California residency from or before January 1, 2015. In the case of an applicant or licensee that is an entity, the entity shall not be considered a resident if any person controlling the entity cannot demonstrate continuous California residency from and before January 1, 2015.

(b) Subdivision (a) shall cease to be operative on December 31, 2019, unless reenacted prior thereto by the Legislature.

26054.2. (a) A licensing authority shall give priority in issuing licenses under this division to applicants that can demonstrate to the authority's satisfaction that the applicant operated in compliance with the Compassionate Use Act and its implementing laws before September 1, 2016, or currently operates in compliance with Chapter 3.5 (commencing with Section 19300) of Division 8.

(b) The bureau shall request that local jurisdictions identify for the bureau potential applicants for licensure based on the applicants' prior operation in the local jurisdiction in compliance with state law, including the Compassionate Use Act and its implementing laws, and any applicable local laws. The bureau shall make the requested information available to licensing authorities.

(c) In addition to or in lieu of the information described in subdivision (b), an applicant may furnish other evidence to demonstrate operation in compliance with the Compassionate Use Act or Chapter 3.5 (commencing with Section 19300) of Division 8. The bureau and licensing authorities may accept such evidence to demonstrate eligibility for the priority provided for in subdivision (a).

(d) This section shall cease to be operative on December 31, 2019, unless otherwise provided by law.

26055. (a) Licensing authorities may issue state licenses only to qualified applicants.

(b) Revocation of a state license issued under this division shall terminate the ability of the licensee to operate within

California until the licensing authority reinstates or reissues the state license.

(c) Separate licenses shall be issued for each of the premises of any licensee having more than one location, except as otherwise authorized by law or regulation.

(d) After issuance or transfer of a license, no licensee shall change or alter the premises in a manner which materially or substantially alters the premises, the usage of the premises, or the mode or character of business operation conducted from the premises, from the plan contained in the diagram on file with the application, unless and until prior written assent of the licensing authority or bureau has been obtained. For purposes of this section, material or substantial physical changes of the premises, or in the usage of the premises, shall include, but not be limited to, a substantial increase or decrease in the total area of the licensed premises previously diagrammed, or any other physical modification resulting in substantial change in the mode or character of business operation.

(e) Licensing authorities shall not approve an application for a state license under this division if approval of the state license will violate the provisions of any local ordinance or regulation adopted in accordance with Section 26200.

26056. An applicant for any type of state license issued pursuant to this division shall comply with the same requirements as set forth in Section 19322 unless otherwise provided by law, including electronic submission of fingerprint images, and any other requirements imposed by law or a licensing authority, except as follows:

(a) Notwithstanding paragraph (2) of subdivision (a) of Section 19322, an applicant need not provide documentation that the applicant has obtained a license, permit or other authorization to operate from the local jurisdiction in which the applicant seeks to operate;

(b) An application for a license under this division shall include evidence that the proposed location meets the restriction in subdivision (b) of Section 26054; and

(c) For applicants seeking licensure to cultivate, distribute, or manufacture nonmedical marijuana or marijuana products, the application shall also include a detailed description of the applicant's operating procedures for all of the following, as required by the licensing authority:

(1) Cultivation.

(2) Extraction and infusion methods.

(3) The transportation process.

(4) The inventory process.

(5) Quality control procedures.

(6) The source or sources of water the applicant will use for the licensed activities, including a certification that the applicant may use that water legally under state law.

(d) The applicant shall provide a complete detailed diagram of the proposed premises wherein the license privileges will be exercised, with sufficient particularity to enable ready determination of the bounds of the premises, showing all boundaries, dimensions, entrances and exits, interior partitions, walls, rooms, and common or shared entryways, and include a brief statement or description of the principal activity to be conducted therein, and, for licenses permitting cultivation, measurements of the planned canopy including aggregate square footage and individual square footage of separate cultivation areas, if any.

26056.5. The bureau shall devise protocols that each licensing authority shall implement to ensure compliance with state laws and regulations related to environmental impacts, natural resource protection, water quality, water supply, hazardous materials, and pesticide use in accordance with regulations, including but not limited to, the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), lake or streambed alteration agreements (Chapter 6 (commencing with Section 1600) of Division 2 of the Fish and Game Code), the Clean Water Act (33 U.S.C. Sec. 1251 et seq.), the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code), timber production zones, wastewater discharge requirements, and any permit or right necessary to divert water.

26057. (a) The licensing authority shall deny an application if either the applicant, or the premises for which a state license is applied, do not qualify for licensure under this division.

(b) The licensing authority may deny the application for licensure or renewal of a state license if any of the following conditions apply:

(1) Failure to comply with the provisions of this division, any rule or regulation adopted pursuant to this division, or any requirement imposed to protect natural resources, including, but not limited to, protections for instream flow and water quality.

(2) Conduct that constitutes grounds for denial of licensure under Chapter 2 (commencing with Section 480) of Division 1.5, except as otherwise specified in this section and Section 26059.

(3) Failure to provide information required by the licensing authority.

(4) The applicant or licensee has been convicted of an offense that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, except that if the licensing authority determines that the applicant or licensee is otherwise suitable to be issued a license, and granting the license would not compromise public safety, the licensing authority shall conduct a thorough review of the nature of the crime, conviction, circumstances, and evidence of rehabilitation of the applicant, and shall evaluate the suitability of the applicant or licensee to be issued a license based on the evidence found through the review. In determining which offenses are substantially related to the qualifications, functions, or duties of the business or profession for which the application is made, the licensing authority shall include, but not be limited to, the following:

(A) A violent felony conviction, as specified in subdivision (c) of Section 667.5 of the Penal Code.

(B) A serious felony conviction, as specified in subdivision (c) of Section 1192.7 of the Penal Code.

(C) A felony conviction involving fraud, deceit, or embezzlement.

(D) A felony conviction for hiring, employing, or using a minor in transporting, carrying, selling, giving away, preparing for sale, or peddling, any controlled substance to a minor; or selling, offering to sell, furnishing, offering to

furnish, administering, or giving any controlled substance to a minor.

(E) A felony conviction for drug trafficking with enhancements pursuant to Section 11370.4 or 11379.8.

(5) Except as provided in subparagraphs (D) and (E) of paragraph (4) and notwithstanding Chapter 2 (commencing with Section 480) of Division 1.5, a prior conviction, where the sentence, including any term of probation, incarceration, or supervised release, is completed, for possession of, possession for sale, sale, manufacture, transportation, or cultivation of a controlled substance is not considered substantially related, and shall not be the sole ground for denial of a license. Conviction for any controlled substance felony subsequent to licensure shall be grounds for revocation of a license or denial of the renewal of a license.

(6) The applicant, or any of its officers, directors, or owners, has been subject to fines or penalties for cultivation or production of a controlled substance on public or private lands pursuant to Section 12025 or 12025.1 of the Fish and Game Code.

(7) The applicant, or any of its officers, directors, or owners, has been sanctioned by a licensing authority or a city, county, or city and county for unauthorized commercial marijuana activities or commercial medical cannabis activities, has had a license revoked under this division or Chapter 3.5 (commencing with Section 19300) of Division 8 in the three years immediately preceding the date the application is filed with the licensing authority, or has been sanctioned under Section 12025 or 12025.1 of the Fish and Game Code.

(8) Failure to obtain and maintain a valid seller's permit required pursuant to Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code.

(9) Any other condition specified in law.

26058. Upon the denial of any application for a license, the licensing authority shall notify the applicant in writing.

26059. An applicant shall not be denied a state license if the denial is based solely on any of the following:

(a) A conviction or act that is substantially related to the qualifications, functions, or duties of the business or profession for which the application is made for which the applicant or licensee has obtained a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(b) A conviction that was subsequently dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code or any other provision allowing for dismissal of a conviction.

Chapter 6. Licensed Cultivation Sites

26060. (a) Regulations issued by the Department of Food and Agriculture governing the licensing of indoor, outdoor, and mixed-light cultivation sites shall apply to licensed cultivators under this division.

(b) Standards developed by the Department of Pesticide Regulation, in consultation with the Department of Food and Agriculture, for the use of pesticides in cultivation, and maximum tolerances for pesticides and other foreign object residue in harvested cannabis shall apply to licensed cultivators under this division.

(c) The Department of Food and Agriculture shall include conditions in each license requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability, and to otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(d) The regulations promulgated by the Department of Food and Agriculture under this division shall, at a minimum, address in relation to commercial marijuana activity, the same matters described in subdivision (e) of Section 19332.

(e) The Department of Pesticide Regulation, in consultation with the State Water Resources Control Board, shall promulgate regulations that require that the application of pesticides or other pest control in connection with the indoor, outdoor, or mixed light cultivation of marijuana meets standards equivalent to Division 6 (commencing with Section 11401) of the Food and Agricultural Code and its implementing regulations.

26061. (a) The state cultivator license types to be issued by the Department of Food and Agriculture under this division shall include Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B, Type 4, and Type 5, Type 5A, and Type 5B unless otherwise provided by law.

(b) Except as otherwise provided by law, Type 1, Type 1A, Type 1B, Type 2, Type 2A, Type 2B, Type 3, Type 3A, Type 3B and Type 4 licenses shall provide for the cultivation of marijuana in the same amount as the equivalent license type for cultivation of medical cannabis as specified in subdivision (g) of Section 19332.

(c) Except as otherwise provided by law:

(1) Type 5, or "outdoor," means for outdoor cultivation using no artificial lighting greater than one acre, inclusive, of total canopy size on one premises.

(2) Type 5A, or "indoor," means for indoor cultivation using exclusively artificial lighting greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(3) Type 5B, or "mixed-light," means for cultivation using a combination of natural and supplemental artificial lighting at a maximum threshold to be determined by the licensing authority, greater than 22,000 square feet, inclusive, of total canopy size on one premises.

(d) No Type 5, Type 5A, or Type 5B cultivation licenses may be issued before January 1, 2023.

(e) Commencing on January 1, 2023, a Type 5, Type 5A, or Type 5B licensee may apply for and hold a Type 6 or Type 7 license and apply for and hold a Type 10 license. A Type 5, Type 5A, or Type 5B licensee shall not be eligible to apply for or hold a Type 8, Type 11, or Type 12 license.

26062. The Department of Food and Agriculture, in conjunction with the bureau, shall establish a certified organic designation and organic certification program for marijuana and marijuana products in the same manner as provided in Section 19332.5.

26063. (a) The bureau shall establish standards for recognition of a particular appellation of origin applicable to marijuana grown or cultivated in a certain geographical area in California.

(b) Marijuana shall not be marketed, labeled, or sold as grown in a California county when the marijuana was not grown in that county.

(c) The name of a California county shall not be used in the labeling, marketing, or packaging of marijuana products unless the marijuana contained in the product was grown in that county.

26064. Each licensed cultivator shall ensure that the licensed premises do not pose an unreasonable risk of fire or combustion. Each cultivator shall ensure that all lighting, wiring, electrical and mechanical devices, or other relevant property is carefully maintained to avoid unreasonable or dangerous risk to the property or others.

26065. An employee engaged in the cultivation of marijuana under this division shall be subject to Wage Order No. 4-2001 of the Industrial Welfare Commission.

26066. Indoor and outdoor marijuana cultivation by persons and entities licensed under this division shall be conducted in accordance with state and local laws related to land conversion, grading, electricity usage, water usage, water quality, woodland and riparian habitat protection, agricultural discharges, and similar matters. State agencies, including, but not limited to, the State Board of Forestry and Fire Protection, the Department of Fish and Wildlife, the State Water Resources Control Board, the California regional water quality control boards, and traditional state law enforcement agencies, shall address environmental impacts of marijuana cultivation and shall coordinate when appropriate with cities and counties and their law enforcement agencies in enforcement efforts.

26067. (a) The Department of Food and Agriculture shall establish a Marijuana Cultivation Program to be administered by the Secretary of Food and Agriculture. The secretary shall administer this section as it pertains to the cultivation of marijuana. For purposes of this division, marijuana is an agricultural product.

(b) A person or entity shall not cultivate marijuana without first obtaining a state license issued by the department pursuant to this section.

(c) (1) The department, in consultation with, but not limited to, the bureau, the State Water Resources Control Board, and the Department of Fish and Wildlife, shall implement a unique identification program for marijuana. In implementing the program, the department shall consider issues including, but not limited to, water use and environmental impacts. In implementing the program, the department shall ensure that:

(A) Individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flows needed to maintain natural flow variability. If a watershed cannot support additional cultivation, no new plant identifiers will be issued for that watershed.

(B) Cultivation will not negatively impact springs, riparian wetlands and aquatic habitats.

(2) The department shall establish a program for the identification of permitted marijuana plants at a cultivation site during the cultivation period. A unique identifier shall be issued for each marijuana plant. The department shall ensure that unique identifiers are issued as quickly as possible to ensure the implementation of this division. The unique identifier shall be attached at the base of each plant or as otherwise required by law or regulation.

(A) Unique identifiers will only be issued to those persons appropriately licensed by this section.

(B) Information associated with the assigned unique identifier and licensee shall be included in the trace and track program specified in Section 26170.

(C) The department may charge a fee to cover the reasonable costs of issuing the unique identifier and monitoring, tracking, and inspecting each marijuana plant.

(D) The department may promulgate regulations to implement this section.

(3) The department shall take adequate steps to establish protections against fraudulent unique identifiers and limit illegal diversion of unique identifiers to unlicensed persons.

(d) Unique identifiers and associated identifying information administered by local jurisdictions shall adhere to the requirements set by the department and be the equivalent to those administered by the department.

(e) (1) This section does not apply to the cultivation of marijuana in accordance with Section 11362.1 of the Health and Safety Code or the Compassionate Use Act.

(2) Subdivision (b) does not apply to persons or entities licensed under either paragraph (3) of subdivision (a) of Section 26070 or subdivision (b) of Section 26070.5.

(f) "Department" for purposes of this section means the Department of Food and Agriculture.

Chapter 7. Retailers and Distributors

26070. Retailers and Distributors.

(a) State licenses to be issued by the Department of Consumer Affairs are as follows:

(1) "Retailer," for the retail sale and delivery of marijuana or marijuana products to customers.

(2) "Distributor," for the distribution of marijuana and marijuana products. A distributor licensee shall be bonded and insured at a minimum level established by the licensing authority.

(3) "Microbusiness," for the cultivation of marijuana on an area less than 10,000 square feet and to act as a licensed distributor, Level 1 manufacturer, and retailer under this division, provided such licensee complies with all requirements imposed by this division on licensed cultivators, distributors, Level 1 manufacturers, and retailers to the extent the licensee engages in such activities. Microbusiness licenses that authorize cultivation of marijuana shall include conditions requested by the Department of Fish and Wildlife and the State Water Resources Control Board to ensure that individual and cumulative effects of water diversion and discharge associated with cultivation do not affect the instream flows needed for fish spawning, migration, and rearing, and the flow needed to maintain flow variability, and otherwise protect fish, wildlife, fish and wildlife habitat, and water quality.

(b) The bureau shall establish minimum security and transportation safety requirements for the commercial distribution and delivery of marijuana and marijuana products. The transportation safety standards established by the bureau shall include, but not be limited to, minimum standards governing the types of vehicles in which marijuana and marijuana products may be distributed and delivered and minimum qualifications for persons eligible to operate such vehicles.

(c) Licensed retailers and microbusinesses, and licensed nonprofits under Section 26070.5, shall implement security measures reasonably designed to prevent

unauthorized entrance into areas containing marijuana or marijuana products and theft of marijuana or marijuana products from the premises. These security measures shall include, but not be limited to, all of the following:

(1) Prohibiting individuals from remaining on the licensee's premises if they are not engaging in activity expressly related to the operations of the dispensary.

(2) Establishing limited access areas accessible only to authorized personnel.

(3) Other than limited amounts of marijuana used for display purposes, samples, or immediate sale, storing all finished marijuana and marijuana products in a secured and locked room, safe, or vault, and in a manner reasonably designed to prevent diversion, theft, and loss.

26070.5. (a) The bureau shall, by January 1, 2018, investigate the feasibility of creating one or more classifications of nonprofit licenses under this section. The feasibility determination shall be made in consultation with the relevant licensing agencies and representatives of local jurisdictions which issue temporary licenses pursuant to subdivision (b). The bureau shall consider factors including, but not limited to, the following:

(1) Should nonprofit licensees be exempted from any or all state taxes, licensing fees and regulatory provisions applicable to other licenses in this division?

(2) Should funding incentives be created to encourage others licensed under this division to provide professional services at reduced or no cost to nonprofit licensees?

(3) Should nonprofit licenses be limited to, or prioritize those, entities previously operating on a not-for-profit basis primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low-income persons?

(b) Any local jurisdiction may issue temporary local licenses to nonprofit entities primarily providing whole-plant marijuana and marijuana products and a diversity of marijuana strains and seed stock to low-income persons so long as the local jurisdiction:

(1) Confirms the license applicant's status as a nonprofit entity registered with the California Attorney General's Registry of Charitable Trusts and that the applicant is in good standing with all state requirements governing nonprofit entities;

(2) Licenses and regulates any such entity to protect public health and safety, and so as to require compliance with all environmental requirements in this division;

(3) Provides notice to the bureau of any such local licenses issued, including the name and location of any such licensed entity and all local regulations governing the licensed entity's operation, and;

(4) Certifies to the bureau that any such licensed entity will not generate annual gross revenues in excess of two million dollars ($2,000,000).

(c) Temporary local licenses authorized under subdivision (b) shall expire after 12 months unless renewed by the local jurisdiction.

(d) The bureau may impose reasonable additional requirements on the local licenses authorized under subdivision (b).

(e) (1) No new temporary local licenses shall be issued pursuant to this section after the date the bureau determines that creation of nonprofit licenses under this division is not feasible, or if the bureau determines such licenses are feasible, after the date a licensing agency commences issuing state nonprofit licenses.

(2) If the bureau determines such licenses are feasible, no temporary license issued under subdivision (b) shall be renewed or extended after the date on which a licensing agency commences issuing state nonprofit licenses.

(3) If the bureau determines that creation of nonprofit licenses under this division is not feasible, the bureau shall provide notice of this determination to all local jurisdictions that have issued temporary licenses under subdivision (b). The bureau may, in its discretion, permit any such local jurisdiction to renew or extend on an annual basis any temporary license previously issued under subdivision (b).

Chapter 8. Distribution and Transport

26080. (a) This division shall not be construed to authorize or permit a licensee to transport or distribute, or cause to be transported or distributed, marijuana or marijuana products outside the state, unless authorized by federal law.

(b) A local jurisdiction shall not prevent transportation of marijuana or marijuana products on public roads by a licensee transporting marijuana or marijuana products in compliance with this division.

Chapter 9. Delivery

26090. (a) Deliveries, as defined in this division, may only be made by a licensed retailer or microbusiness, or a licensed nonprofit under Section 26070.5.

(b) A customer requesting delivery shall maintain a physical or electronic copy of the delivery request and shall make it available upon request by the licensing authority and law enforcement officers.

(c) A local jurisdiction shall not prevent delivery of marijuana or marijuana products on public roads by a licensee acting in compliance with this division and local law as adopted under Section 26200.

Chapter 10. Manufacturers and Testing Laboratories

26100. The State Department of Public Health shall promulgate regulations governing the licensing of marijuana manufacturers and testing laboratories. Licenses to be issued are as follows:

(a) "Manufacturing Level 1," for sites that manufacture marijuana products using nonvolatile solvents, or no solvents.

(b) "Manufacturing Level 2," for sites that manufacture marijuana products using volatile solvents.

(c) "Testing," for testing of marijuana and marijuana products. Testing licensees shall have their facilities or devices licensed according to regulations set forth by the department. A testing licensee shall not hold a license in another license category of this division and shall not own or have ownership interest in a non-testing facility licensed pursuant to this division.

(d) For purposes of this section, "volatile solvents" shall have the same meaning as in subdivision (d) of Section 11362.3 of the Health and Safety Code unless otherwise provided by law or regulation.

26101. (a) Except as otherwise provided by law, no marijuana or marijuana products may be sold pursuant to a license provided for under this division unless a representative sample of such marijuana or marijuana

product has been tested by a certified testing service to determine:

(1) Whether the chemical profile of the sample conforms to the labeled content of compounds, including, but not limited to, all of the following:

(A) Tetrahydrocannabinol (THC).

(B) Tetrahydrocannabinolic Acid (THCA).

(C) Cannabidiol (CBD).

(D) Cannabidiolic Acid (CBDA).

(E) The terpenes described in the most current version of the cannabis inflorescence monograph published by the American Herbal Pharmacopoeia.

(F) Cannabigerol (CBG).

(G) Cannabinol (CBN).

(2) That the presence of contaminants does not exceed the levels in the most current version of the American Herbal Pharmacopoeia monograph. For purposes of this paragraph, contaminants includes, but is not limited to, all of the following:

(A) Residual solvent or processing chemicals, including explosive gases, such as Butane, propane, O_2 or H_2, and poisons, toxins, or carcinogens, such as Methanol, Iso-propyl Alcohol, Methylene Chloride, Acetone, Benzene, Toluene, and Tri-chloro-ethylene.

(B) Foreign material, including, but not limited to, hair, insects, or similar or related adulterant.

(C) Microbiological impurity, including total aerobic microbial count, total yeast mold count, P. aeruginosa, aspergillus spp., s. aureus, aflatoxin B1, B2, G1, or G2, or ochratoxin A.

(b) Residual levels of volatile organic compounds shall satisfy standards of the cannabis inflorescence monograph set by the United States Pharmacopeia (U.S.P. Chapter 467).

(c) The testing required by paragraph (a) shall be performed in a manner consistent with general requirements for the competence of testing and calibrations activities, including sampling, using standard methods established by the International Organization for Standardization, specifically ISO/IEC 17020 and ISO/IEC 17025 to test marijuana and marijuana products that are approved by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Agreement.

(d) Any pre-sale inspection, testing transfer, or transportation of marijuana products pursuant to this section shall conform to a specified chain of custody protocol and any other requirements imposed under this division.

26102. A licensed testing service shall not handle, test, or analyze marijuana or marijuana products unless the licensed testing laboratory meets the requirements of Section 19343 or unless otherwise provided by law.

26103. A licensed testing service shall issue a certificate of analysis for each lot, with supporting data, to report the same information required in Section 19344 or unless otherwise provided by law.

26104. (a) A licensed testing service shall, in performing activities concerning marijuana and marijuana products, comply with the requirements and restrictions set forth in applicable law and regulations.

(b) The State Department of Public Health shall develop procedures to:

(1) Ensure that testing of marijuana and marijuana products occurs prior to distribution to retailers, microbusinesses, or nonprofits licensed under Section 26070.5;

(2) Specify how often licensees shall test marijuana and marijuana products, and that the cost of testing marijuana shall be borne by the licensed cultivators and the cost of testing marijuana products shall be borne by the licensed manufacturer, and that the costs of testing marijuana and marijuana products shall be borne by a nonprofit licensed under Section 26070.5; and

(3) Require destruction of harvested batches whose testing samples indicate noncompliance with health and safety standards promulgated by the State Department of Public Health, unless remedial measures can bring the marijuana or marijuana products into compliance with quality assurance standards as promulgated by the State Department of Public Health.

26105. Manufacturing Level 2 licensees shall enact sufficient methods or procedures to capture or otherwise limit risk of explosion, combustion, or any other unreasonably dangerous risk to public safety created by volatile solvents. The State Department of Public Health shall establish minimum standards concerning such methods and procedures for Level 2 licensees.

26106. Standards for the production and labeling of all marijuana products developed by the State Department of Public Health shall apply to licensed manufacturers and microbusinesses, and nonprofits licensed under Section 26070.5 unless otherwise specified by the State Department of Public Health.

CHAPTER 11. QUALITY ASSURANCE, INSPECTION, AND TESTING

26110. (a) All marijuana and marijuana products shall be subject to quality assurance, inspection, and testing.

(b) All marijuana and marijuana products shall undergo quality assurance, inspection, and testing in the same manner as provided in Section 19326, except as otherwise provided in this division or by law.

CHAPTER 12. PACKAGING AND LABELING

26120. (a) Prior to delivery or sale at a retailer, marijuana and marijuana products shall be labeled and placed in a resealable, child resistant package.

(b) Packages and labels shall not be made to be attractive to children.

(c) All marijuana and marijuana product labels and inserts shall include the following information prominently displayed in a clear and legible fashion in accordance with the requirements, including font size, prescribed by the bureau or the State Department of Public Health:

(1) Manufacture date and source.

(2) The following statements, in bold print:

(A) For marijuana: "GOVERNMENT WARNING: THIS PACKAGE CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA IMPAIRS YOUR ABILITY

TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(B) For marijuana products: "GOVERNMENT WARNING: THIS PRODUCT CONTAINS MARIJUANA, A SCHEDULE I CONTROLLED SUBSTANCE. KEEP OUT OF REACH OF CHILDREN AND ANIMALS. MARIJUANA PRODUCTS MAY ONLY BE POSSESSED OR CONSUMED BY PERSONS 21 YEARS OF AGE OR OLDER UNLESS THE PERSON IS A QUALIFIED PATIENT. THE INTOXICATING EFFECTS OF MARIJUANA PRODUCTS MAY BE DELAYED UP TO TWO HOURS. MARIJUANA USE WHILE PREGNANT OR BREASTFEEDING MAY BE HARMFUL. CONSUMPTION OF MARIJUANA PRODUCTS IMPAIRS YOUR ABILITY TO DRIVE AND OPERATE MACHINERY. PLEASE USE EXTREME CAUTION."

(3) For packages containing only dried flower, the net weight of marijuana in the package.

(4) Identification of the source and date of cultivation, the type of marijuana or marijuana product and the date of manufacturing and packaging.

(5) The appellation of origin, if any.

(6) List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total, and the potency of the marijuana or marijuana product by reference to the amount of tetrahydrocannabinol and cannabidiol in each serving.

(7) For marijuana products, a list of all ingredients and disclosure of nutritional information in the same manner as the federal nutritional labeling requirements in Section 101.9 of Title 21 of the Code of Federal Regulations.

(8) A list of any solvents, nonorganic pesticides, herbicides, and fertilizers that were used in the cultivation, production, and manufacture of such marijuana or marijuana product.

(9) A warning if nuts or other known allergens are used.

(10) Information associated with the unique identifier issued by the Department of Food and Agriculture.

(11) Any other requirement set by the bureau or the State Department of Public Health.

(d) Only generic food names may be used to describe the ingredients in edible marijuana products.

(e) In the event the bureau determines that marijuana is no longer a schedule I controlled substance under federal law, the label prescribed in subdivision (c) shall no longer require a statement that marijuana is a schedule I controlled substance.

Chapter 13. Marijuana Products

26130. (a) Marijuana products shall be:

(1) Not designed to be appealing to children or easily confused with commercially sold candy or foods that do not contain marijuana.

(2) Produced and sold with a standardized dosage of cannabinoids not to exceed ten (10) milligrams tetrahydrocannabinol (THC) per serving.

(3) Delineated or scored into standardized serving sizes if the marijuana product contains more than one serving and is an edible marijuana product in solid form.

(4) Homogenized to ensure uniform disbursement of cannabinoids throughout the product.

(5) Manufactured and sold under sanitation standards established by the State Department of Public Health, in consultation with the bureau, for preparation, storage, handling and sale of food products.

(6) Provided to customers with sufficient information to enable the informed consumption of such product, including the potential effects of the marijuana product and directions as to how to consume the marijuana product, as necessary.

(b) Marijuana, including concentrated cannabis, included in a marijuana product manufactured in compliance with law is not considered an adulterant under state law.

Chapter 14. Protection of Minors

26140. (a) No licensee shall:

(1) Sell marijuana or marijuana products to persons under 21 years of age.

(2) Allow any person under 21 years of age on its premises.

(3) Employ or retain persons under 21 years of age.

(4) Sell or transfer marijuana or marijuana products unless the person to whom the marijuana or marijuana product is to be sold first presents documentation which reasonably appears to be a valid government-issued identification card showing that the person is 21 years of age or older.

(b) Persons under 21 years of age may be used by peace officers in the enforcement of this division and to apprehend licensees, or employees or agents of licensees, or other persons who sell or furnish marijuana to minors. Notwithstanding any provision of law, any person under 21 years of age who purchases or attempts to purchase any marijuana while under the direction of a peace officer is immune from prosecution for that purchase or attempt to purchase marijuana. Guidelines with respect to the use of persons under 21 years of age as decoys shall be adopted and published by the bureau in accordance with the rulemaking portion of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

(c) Notwithstanding subdivision (a), a licensee that is also a dispensary licensed under Chapter 3.5 (commencing with Section 19300) of Division 8 may:

(1) Allow on the premises any person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card;

(2) Sell marijuana, marijuana products, and marijuana accessories to a person 18 years of age or older who possesses a valid identification card under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

Chapter 15. Advertising and Marketing Restrictions

26150. For purposes of this chapter:

(a) "Advertise" means the publication or dissemination of an advertisement.

(b) "Advertisement" includes any written or verbal statement, illustration, or depiction which is calculated to induce sales of marijuana or marijuana products, including any written, printed, graphic, or other material, billboard, sign, or other outdoor display, public transit card, other periodical literature, publication, or in a radio or television

broadcast, or in any other media; except that such term shall not include:

(1) Any label affixed to any marijuana or marijuana products, or any individual covering, carton, or other wrapper of such container that constitutes a part of the labeling under provisions of this division.

(2) Any editorial or other reading material (e.g., news release) in any periodical or publication or newspaper for the publication of which no money or valuable consideration is paid or promised, directly or indirectly, by any licensee, and which is not written by or at the direction of the licensee.

(c) "Advertising sign" is any sign, poster, display, billboard, or any other stationary or permanently affixed advertisement promoting the sale of marijuana or marijuana products which are not cultivated, manufactured, distributed, or sold on the same lot.

(d) "Health-related statement" means any statement related to health, and includes statements of a curative or therapeutic nature that, expressly or by implication, suggest a relationship between the consumption of marijuana or marijuana products and health benefits, or effects on health.

(e) "Market" or "Marketing" means any act or process of promoting or selling marijuana or marijuana products, including, but not limited to, sponsorship of sporting events, point-of-sale advertising, and development of products specifically designed to appeal to certain demographics.

26151. (a) All advertisements and marketing shall accurately and legibly identify the licensee responsible for its content.

(b) Any advertising or marketing placed in broadcast, cable, radio, print and digital communications shall only be displayed where at least 71.6 percent of the audience is reasonably expected to be 21 years of age or older, as determined by reliable, up-to-date audience composition data.

(c) Any advertising or marketing involving direct, individualized communication or dialogue controlled by the licensee shall utilize a method of age affirmation to verify that the recipient is 21 years of age or older prior to engaging in such communication or dialogue controlled by the licensee. For purposes of this section, such method of age affirmation may include user confirmation, birth date disclosure, or other similar registration method.

(d) All advertising shall be truthful and appropriately substantiated.

26152. No licensee shall:

(a) Advertise or market in a manner that is false or untrue in any material particular, or that, irrespective of falsity, directly, or by ambiguity, omission, or inference, or by the addition of irrelevant, scientific or technical matter, tends to create a misleading impression;

(b) Publish or disseminate advertising or marketing containing any statement concerning a brand or product that is inconsistent with any statement on the labeling thereof;

(c) Publish or disseminate advertising or marketing containing any statement, design, device, or representation which tends to create the impression that the marijuana originated in a particular place or region, unless the label of the advertised product bears an appellation of origin, and such appellation of origin appears in the advertisement;

(d) Advertise or market on a billboard or similar advertising device located on an Interstate Highway or State Highway which crosses the border of any other state;

(e) Advertise or market marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products;

(f) Publish or disseminate advertising or marketing containing symbols, language, music, gestures, cartoon characters or other content elements known to appeal primarily to persons below the legal age of consumption; or

(g) Advertise or market marijuana or marijuana products on an advertising sign within 1,000 feet of a day care center, school providing instruction in kindergarten or any grades 1 through 12, playground, or youth center.

26153. No licensee shall give away any amount of marijuana or marijuana products, or any marijuana accessories, as part of a business promotion or other commercial activity.

26154. No licensee shall publish or disseminate advertising or marketing containing any health-related statement that is untrue in any particular manner or tends to create a misleading impression as to the effects on health of marijuana consumption.

26155. (a) The provisions of subdivision (g) of Section 26152 shall not apply to the placement of advertising signs inside a licensed premises and which are not visible by normal unaided vision from a public place, provided that such advertising signs do not advertise marijuana or marijuana products in a manner intended to encourage persons under the age of 21 years to consume marijuana or marijuana products.

(b) This chapter does not apply to any noncommercial speech.

Chapter 16. Records

26160. (a) A licensee shall keep accurate records of commercial marijuana activity.

(b) All records related to commercial marijuana activity as defined by the licensing authorities shall be maintained for a minimum of seven years.

(c) The bureau may examine the books and records of a licensee and inspect the premises of a licensee as the licensing authority, or a state or local agency, deems necessary to perform its duties under this division. All inspections shall be conducted during standard business hours of the licensed facility or at any other reasonable time.

(d) Licensees shall keep records identified by the licensing authorities on the premises of the location licensed. The licensing authorities may make any examination of the records of any licensee. Licensees shall also provide and deliver copies of documents to the licensing agency upon request.

(e) A licensee, or its agent or employee, that refuses, impedes, obstructs, or interferes with an inspection of the premises or records of the licensee pursuant to this section, has engaged in a violation of this division.

(f) If a licensee, or an agent or employee of a licensee, fails to maintain or provide the records required pursuant to this section, the licensee shall be subject to a citation

and fine of up to thirty thousand dollars ($30,000) per individual violation.

26161. (a) Every sale or transport of marijuana or marijuana products from one licensee to another licensee must be recorded on a sales invoice or receipt. Sales invoices and receipts may be maintained electronically and must be filed in such manner as to be readily accessible for examination by employees of the bureau or Board of Equalization and shall not be commingled with invoices covering other commodities.

(b) Each sales invoice required by subdivision (a) shall include the name and address of the seller and shall include the following information:

(1) Name and address of the purchaser.

(2) Date of sale and invoice number.

(3) Kind, quantity, size, and capacity of packages of marijuana or marijuana products sold.

(4) The cost to the purchaser, together with any discount applied to the price as shown on the invoice.

(5) The place from which transport of the marijuana or marijuana product was made unless transport was made from the premises of the licensee.

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(6) Any other information specified by the bureau or the licensing authority.

Chapter 17. Track and Trace System

26170. (a) The Department of Food and Agriculture, in consultation with the bureau and the State Board of Equalization, shall expand the track and trace program provided for under Article 7.5 (commencing with Section 19335) of Chapter 3.5 of Division 8 to include the reporting of the movement of marijuana and marijuana products throughout the distribution chain and provide, at a minimum, the same level of information for marijuana and marijuana products as required to be reported for medical cannabis and medical cannabis products, and in addition, the amount of the cultivation tax due pursuant to Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. The expanded track and trace program shall include an electronic seed to sale software tracking system with data points for the different stages of commercial activity including, but not limited to, cultivation, harvest, processing, distribution, inventory, and sale.

(b) The department, in consultation with the bureau, shall ensure that licensees under this division are allowed to use third-party applications, programs and information technology systems to comply with the requirements of the expanded track and trace program described in subdivision (a) to report the movement of marijuana and marijuana products throughout the distribution chain and communicate such information to licensing agencies as required by law.

(c) Any software, database or other information technology system utilized by the department to implement the expanded track and trace program shall support interoperability with third-party cannabis business software applications and allow all licensee-facing system activities to be performed through a secure application programming interface (API) or comparable technology which is well documented, bi-directional, and accessible to any third-party application that has been validated and has appropriate credentials. The API or comparable technology shall have version control and provide adequate notice of updates to third-party applications. The system should provide a test environment for third-party applications to access that mirrors the production environment.

Chapter 18. License Fees

26180. Each licensing authority shall establish a scale of application, licensing, and renewal fees, based upon the cost of enforcing this division, as follows:

(a) Each licensing authority shall charge each licensee a licensure and renewal fee, as applicable. The licensure and renewal fee shall be calculated to cover the costs of administering this division. The licensure fee may vary depending upon the varying costs associated with administering the various regulatory requirements of this division as they relate to the nature and scope of the different licensure activities, including, but not limited to, the track and trace program required pursuant to Section 26170, but shall not exceed the reasonable regulatory costs to the licensing authority.

(b) The total fees assessed pursuant to this division shall be set at an amount that will fairly and proportionately generate sufficient total revenue to fully cover the total costs of administering this division.

(c) All license fees shall be set on a scaled basis by the licensing authority, dependent on the size of the business.

(d) The licensing authority shall deposit all fees collected in a fee account specific to that licensing authority, to be established in the Marijuana Control Fund. Moneys in the licensing authority fee accounts shall be used, upon appropriation by the Legislature, by the designated licensing authority for the administration of this division.

26181. The State Water Resources Control Board, the Department of Fish and Wildlife, and other agencies may establish fees to cover the costs of their marijuana regulatory programs.

Chapter 19. Annual Reports; Performance Audit

26190. Beginning on March 1, 2020, and on or before March 1 of each year thereafter, each licensing authority shall prepare and submit to the Legislature an annual report on the authority's activities concerning commercial marijuana activities and post the report on the authority's Internet Web site. The report shall include, but not be limited to, the same type of information specified in Section 19353, and a detailed list of the petitions for regulatory relief or rulemaking changes received by the office from licensees requesting modifications of the enforcement of rules under this division.

26191. (a) Commencing January 1, 2019, and by January 1 of each year thereafter, the California State Auditor's Office shall conduct a performance audit of the bureau's activities under this division, and shall report its findings to the bureau and the Legislature by July 1 of that same year. The report shall include, but not be limited to, the following:

(1) The actual costs of the program.

(2) The overall effectiveness of enforcement programs.

(3) Any report submitted pursuant to this section shall be submitted in compliance with Section 9795 of the Government Code.

(b) The Legislature shall provide sufficient funds to the California State Auditor's Office to conduct the annual audit required by this section.

Chapter 20. Local Control

26200. (a) Nothing in this division shall be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances to regulate businesses licensed under this division, including, but not limited to, local zoning and land use requirements, business license requirements, and requirements related to reducing exposure to secondhand smoke, or to completely prohibit the establishment or operation of one or more types of businesses licensed under this division within the local jurisdiction.

(b) Nothing in this division shall be interpreted to require a licensing authority to undertake local law enforcement responsibilities, enforce local zoning requirements, or enforce local licensing requirements.

(c) A local jurisdiction shall notify the bureau upon revocation of any local license, permit, or authorization for a licensee to engage in commercial marijuana activity within the local jurisdiction. Within 10 days of notification, the bureau shall inform the relevant licensing authorities. Within 10 days of being so informed by the bureau, the relevant licensing authorities shall commence proceedings under Chapter 3 (commencing with Section 26030) to determine whether a license issued to the licensee should be suspended or revoked.

(d) Notwithstanding paragraph (1) of subdivision (a) of Section 11362.3 of the Health and Safety Code, a local jurisdiction may allow for the smoking, vaporizing, and ingesting of marijuana or marijuana products on the premises of a retailer or microbusiness licensed under this division if:

(1) Access to the area where marijuana consumption is allowed is restricted to persons 21 years of age and older;

(2) Marijuana consumption is not visible from any public place or non-age restricted area; and

(3) Sale or consumption of alcohol or tobacco is not allowed on the premises.

26201. Any standards, requirements, and regulations regarding health and safety, environmental protection, testing, security, food safety, and worker protections established by the state shall be the minimum standards for all licensees under this division statewide. A local jurisdiction may establish additional standards, requirements, and regulations.

26202. (a) A local jurisdiction may enforce this division and the regulations promulgated by the bureau or any licensing authority if delegated the power to do so by the bureau or a licensing authority.

(b) The bureau or any licensing authority shall implement the delegation of enforcement authority in subdivision (a) through a memorandum of understanding between the bureau or licensing authority and the local jurisdiction to which enforcement authority is to be delegated.

Chapter 21. Funding

26210. (a) The Medical Cannabis Regulation and Safety Act Fund established in Section 19351 is hereby renamed the Marijuana Control Fund.

(b) Upon the effective date of this section, whenever "Medical Cannabis Regulation and Safety Act Fund" appears in any statute, regulation, or contract, or in any other code, it shall be construed to refer to the Marijuana Control Fund.

26211. (a) Funds for the initial establishment and support of the regulatory activities under this division, including the public information program described in subdivision (c), and for the activities of the Board of Equalization under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code until July 1, 2017, or until the 2017 Budget Act is enacted, whichever occurs later, shall be advanced from the General Fund and shall be repaid by the initial proceeds from fees collected pursuant to this division, any rule or regulation adopted pursuant to this division, or revenues collected from the tax imposed by Sections 34011 and 34012 of the Revenue and Taxation Code, by January 1, 2025.

(1) Funds advanced pursuant to this subdivision shall be appropriated to the bureau, which shall distribute the moneys to the appropriate licensing authorities, as necessary to implement the provisions of this division, and to the Board of Equalization, as necessary, to implement the provisions of Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code.

(2) Within 45 days of this section becoming operative:

(A) The Director of Finance shall determine an amount of the initial advance from the General Fund to the Marijuana Control Fund that does not exceed thirty million dollars ($30,000,000); and

(B) There shall be advanced a sum of five million dollars ($5,000,000) from the General Fund to the State Department of Health Care Services to provide for the public information program described in subdivision (c).

(b) Notwithstanding subdivision (a), the Legislature shall provide sufficient funds to the Marijuana Control Fund to support the activities of the bureau, state licensing authorities under this division, and the Board of Equalization to support its activities under Part 14.5 (commencing with Section 34010) of Division 2 of the Revenue and Taxation Code. It is anticipated that this funding will be provided annually beginning on July 1, 2017.

(c) The State Department of Health Care Services shall establish and implement a public information program no later than September 1, 2017. This public information program shall, at a minimum, describe the provisions of the Control, Regulate and Tax Adult Use of Marijuana Act of 2016, the scientific basis for restricting access of marijuana and marijuana products to persons under the age of 21 years, describe the penalties for providing access to marijuana and marijuana products to persons under the age of 21 years, provide information regarding the dangers of driving a motor vehicle, boat, vessel, aircraft, or other vehicle used for transportation while impaired from marijuana use, the potential harms of using marijuana while pregnant or breastfeeding, and the potential harms of overusing marijuana or marijuana products.

SEC. 6.2. Section 147.6 is added to the Labor Code, to read:

147.6. (a) By March 1, 2018, the Division of Occupational Safety and Health shall convene an advisory committee to evaluate whether there is a need to develop industry-specific regulations related to the activities of licensees under Division 10 (commencing with Section 26000) of the Business and Professions Code, including but not limited to, whether specific requirements are needed to address exposure to second-hand marijuana smoke by employees at facilities where on-site consumption

of marijuana is permitted under subdivision (d) of Section 26200 of the Business and Professions Code, and whether specific requirements are needed to address the potential risks of combustion, inhalation, armed robberies or repetitive strain injuries.

(b) By October 1, 2018, the advisory committee shall present to the board its findings and recommendations for consideration by the board. By October 1, 2018, the board shall render a decision regarding the adoption of industry-specific regulations pursuant to this section.

SEC. 6.3. Section 13276 of the Water Code is amended to read:

13276. (a) The multiagency task force, the Department of Fish and Wildlife and State Water Resources Control Board pilot project to address the Environmental Impacts of Cannabis Cultivation, assigned to respond to the damages caused by marijuana cultivation on public and private lands in California, shall continue its enforcement efforts on a permanent basis and expand them to a statewide level to ensure the reduction of adverse impacts of marijuana cultivation on water quality and on fish and wildlife throughout the state.

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(b) Each regional board shall, and the State Water Resources Control Board may, address discharges of waste resulting from medical marijuana cultivation *and commercial marijuana cultivation under Division 10 of the Business and Professions Code* and associated activities, including by adopting a general permit, establishing waste discharge requirements, or taking action pursuant to Section 13269. In addressing these discharges, each regional board shall include conditions to address items that include, but are not limited to, all of the following:

(1) Site development and maintenance, erosion control, and drainage features.

(2) Stream crossing installation and maintenance.

(3) Riparian and wetland protection and management.

(4) Soil disposal.

(5) Water storage and use.

(6) Irrigation runoff.

(7) Fertilizers and soil.

(8) Pesticides and herbicides.

(9) Petroleum products and other chemicals.

(10) Cultivation-related waste.

(11) Refuse and human waste.

(12) Cleanup, restoration, and mitigation.

SEC. 7. Marijuana Tax.

SEC. 7.1. Part 14.5 (commencing with Section 34010) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 14.5. MARIJUANA TAX

34010. For purposes of this part:

(a) "Board" shall mean the Board of Equalization or its successor agency.

(b) "Bureau" shall mean the Bureau of Marijuana Control within the Department of Consumer Affairs.

(c) "Tax Fund" means the California Marijuana Tax Fund created by Section 34018.

(d) "Marijuana" shall have the same meaning as set forth in Section 11018 of the Health and Safety Code and shall also mean medical cannabis.

(e) "Marijuana products" shall have the same meaning as set forth in Section 11018.1 of the Health and Safety Code and shall also mean medical concentrates and medical cannabis products.

(f) "Marijuana flowers" shall mean the dried flowers of the marijuana plant as defined by the board.

(g) "Marijuana leaves" shall mean all parts of the marijuana plant other than marijuana flowers that are sold or consumed.

(h) "Gross receipts" shall have the same meaning as set forth in Section 6012.

(i) "Retail sale" shall have the same meaning as set forth in Section 6007.

(j) "Person" shall have the same meaning as set forth in Section 6005.

(k) "Microbusiness" shall have the same meaning as set forth in paragraph (3) of subdivision (a) of Section 26070 of the Business and Professions Code.

(l) "Nonprofit" shall have the same meaning as set forth in Section 26070.5 of the Business and Professions Code.

34011. (a) Effective January 1, 2018, a marijuana excise tax shall be imposed upon purchasers of marijuana or marijuana products sold in this state at the rate of 15 percent of the gross receipts of any retail sale by a dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code to sell marijuana and marijuana products directly to a purchaser.

(b) Except as otherwise provided by regulation, the tax levied under this section shall apply to the full price, if nonitemized, of any transaction involving both marijuana or marijuana products and any other otherwise distinct and identifiable goods or services, and the price of any goods or services, if a reduction in the price of marijuana or marijuana products is contingent on purchase of those goods or services.

(c) A dispensary or other person required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or a retailer, microbusiness, nonprofit, or other person required to be licensed pursuant to Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for collecting this tax and remitting it to the board in accordance with rules and procedures established under law and any regulations adopted by the board.

(d) The excise tax imposed by this section shall be in addition to the sales and use tax imposed by the state and local governments.

(e) Gross receipts from the sale of marijuana or marijuana products for purposes of assessing the sales and use tax under Part 1 of this division shall include the tax levied pursuant to this section.

(f) No marijuana or marijuana products may be sold to a purchaser unless the excise tax required by law has been paid by the purchaser at the time of sale.

(g) The sales and use tax imposed by Part 1 (commencing with Section 6001) shall not apply to retail sales of medical cannabis, medical cannabis concentrate, edible medical cannabis products or topical cannabis as those terms are defined in Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code when a qualified patient or primary caregiver for a qualified patient provides his or her card issued under Section 11362.71 of the Health and Safety Code and a valid government-issued identification card.

34012. (a) Effective January 1, 2018, there is hereby imposed a cultivation tax on all harvested marijuana that enters the commercial market upon all persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code. The tax shall be due after the marijuana is harvested.

(1) The tax for marijuana flowers shall be nine dollars and twenty-five cents ($9.25) per dry-weight ounce.

(2) The tax for marijuana leaves shall be set at two dollars and seventy-five cents ($2.75) per dry-weight ounce.

(b) The board may adjust the tax rate for marijuana leaves annually to reflect fluctuations in the relative price of marijuana flowers to marijuana leaves.

(c) The board may from time to time establish other categories of harvested marijuana, categories for unprocessed or frozen marijuana or immature plants, or marijuana that is shipped directly to manufacturers. These categories shall be taxed at their relative value compared with marijuana flowers.

(d) The board may prescribe by regulation a method and manner for payment of the cultivation tax that utilizes tax stamps or state-issued product bags that indicate that all required tax has been paid on the product to which the tax stamp is affixed or in which the marijuana is packaged.

(e) The tax stamps and product bags shall be of the designs, specifications and denominations as may be prescribed by the board and may be purchased by any licensee under Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or under Division 10 (commencing with Section 26000) of the Business and Professions Code.

(f) Subsequent to the establishment of a tax stamp program, the board may by regulation provide that no marijuana may be removed from a licensed cultivation facility or transported on a public highway unless in a state-issued product bag bearing a tax stamp in the proper denomination.

(g) The tax stamps and product bags shall be capable of being read by a scanning or similar device and must be traceable utilizing the track and trace system pursuant to Section 26170 of the Business and Professions Code.

(h) Persons required to be licensed to cultivate marijuana pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code or Division 10 (commencing with Section 26000) of the Business and Professions Code shall be responsible for payment of the tax pursuant to regulations adopted by the board. No marijuana may be sold unless the tax has been paid as provided in this part.

(i) All marijuana removed from a cultivator's premises, except for plant waste, shall be presumed to be sold and thereby taxable under this section.

(j) The tax imposed by this section shall be imposed on all marijuana cultivated in the state pursuant to rules and regulations promulgated by the board, but shall not apply to marijuana cultivated for personal use under Section 11362.1 of the Health and Safety Code or cultivated by a qualified patient or primary caregiver in accordance with the Compassionate Use Act.

(k) Beginning January 1, 2020, the rates set forth in subdivisions (a), (b), and (c) shall be adjusted by the board annually thereafter for inflation.

34013. (a) The board shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001) of Division 2). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the tax imposed by this part, and references to "feepayer" shall include a person required to pay or collect the tax imposed by this part.

(b) The board may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, collections, reporting, refunds, and appeals.

(c) The board shall adopt necessary rules and regulations to administer the taxes in this part. Such rules and regulations may include methods or procedures to tag marijuana or marijuana products, or the packages thereof, to designate prior tax payment.

(d) The board may prescribe, adopt, and enforce any emergency regulations as necessary to implement, administer and enforce its duties under this division. Any emergency regulation prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of the regulation is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding any other provision of law, the emergency regulations adopted by the board may remain in effect for two years from adoption.

(e) Any person who fails to pay the taxes imposed under this part shall, in addition to owing the taxes not paid, be subject to a penalty of at least one-half the amount of the taxes not paid, and shall be subject to having its license revoked pursuant to Section 26031 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code.

(f) The board may bring such legal actions as are necessary to collect any deficiency in the tax required to be paid, and, upon the board's request, the Attorney General shall bring the actions.

34014. (a) All persons required to be licensed involved in the cultivation and retail sale of marijuana or marijuana products must obtain a separate permit from the board pursuant to regulations adopted by the board. No fee shall be charged to any person for issuance of the permit. Any person required to obtain a permit who engages in business as a cultivator, dispensary, retailer, microbusiness or nonprofit pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code without a permit or after a permit has been canceled,

suspended, or revoked, and each officer of any corporation which so engages in business, is guilty of a misdemeanor.

(b) The board may require every licensed dispensary, cultivator, microbusiness, nonprofit, or other person required to be licensed, to provide security to cover the liability for taxes imposed by state law on marijuana produced or received by the cultivator, microbusiness, nonprofit, or other person required to be licensed in accordance with procedures to be established by the board. Notwithstanding anything herein to the contrary, the board may waive any security requirement it imposes for good cause, as determined by the board. "Good cause" includes, but is not limited to, the inability of a cultivator, microbusiness, nonprofit, or other person required to be licensed to obtain security due to a lack of service providers or the policies of service providers that prohibit service to a marijuana business. A person may not commence or continue any business or operation relating to marijuana cultivation until any surety required by the board with respect to the business or operation has been properly prepared, executed and submitted under this part.

(c) In fixing the amount of any security required by the board, the board shall give consideration to the financial hardship that may be imposed on licensees as a result of any shortage of available surety providers.

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34015. (a) The marijuana excise tax and cultivation tax imposed by this part is due and payable to the board quarterly on or before the last day of the month following each quarterly period of three months. On or before the last day of the month following each quarterly period, a return for the preceding quarterly period shall be filed with the board by each person required to be licensed for cultivation or retail sale under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code using electronic media. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the board. If the cultivation tax is paid by stamp pursuant to subdivision (d) of Section 34012 the board may by regulation determine when and how the tax shall be paid.

(b) The board may require every person engaged in the cultivation, distribution or retail sale of marijuana and marijuana products required to be licensed pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to file, on or before the 25th day of each month, a report using electronic media respecting the person's inventory, purchases, and sales during the preceding month and any other information as the board may require to carry out the purposes of this part. Reports shall be authenticated in a form or pursuant to methods as may be prescribed by the board.

34016. (a) Any peace officer or board employee granted limited peace officer status pursuant to paragraph (6) of subdivision (a) of Section 830.11 of the Penal Code, upon presenting appropriate credentials, is authorized to enter any place as described in paragraph (3) and to conduct inspections in accordance with the following paragraphs, inclusive.

(1) Inspections shall be performed in a reasonable manner and at times that are reasonable under the circumstances, taking into consideration the normal business hours of the place to be entered.

(2) Inspections may be at any place at which marijuana or marijuana products are sold to purchasers, cultivated, or stored, or at any site where evidence of activities involving evasion of tax may be discovered.

(3) Inspections shall be requested or conducted no more than once in a 24-hour period.

(b) Any person who fails or refuses to allow an inspection shall be guilty of a misdemeanor. Each offense shall be punished by a fine not to exceed five thousand dollars ($5,000), or imprisonment not exceeding one year in a county jail, or both the fine and imprisonment. The court shall order any fines assessed be deposited in the California Marijuana Tax Fund.

(c) Upon discovery by the board or a law enforcement agency that a licensee or any other person possesses, stores, owns, or has made a retail sale of marijuana or marijuana products, without evidence of tax payment or not contained in secure packaging, the board or the law enforcement agency shall be authorized to seize the marijuana or marijuana products. Any marijuana or marijuana products seized by a law enforcement agency or the board shall within seven days be deemed forfeited and the board shall comply with the procedures set forth in Sections 30436 through 30449, inclusive.

(d) Any person who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine not to exceed one thousand dollars ($1,000) for each offense.

(e) Any violation of any provisions of this part, except as otherwise provided, is a misdemeanor and is punishable as such.

(f) All moneys remitted to the board under this part shall be credited to the California Marijuana Tax Fund.

34017. The Legislative Analyst's Office shall submit a report to the Legislature by January 1, 2020, with recommendations to the Legislature for adjustments to the tax rate to achieve the goals of undercutting illicit market prices and discouraging use by persons younger than 21 years of age while ensuring sufficient revenues are generated for the programs identified in Section 34019.

34018. (a) The California Marijuana Tax Fund is hereby created in the State Treasury. The Tax Fund shall consist of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part, less payment of refunds.

(b) Notwithstanding any other law, the California Marijuana Tax Fund is a special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are hereby continuously appropriated for the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act without regard to fiscal year and shall be expended only in accordance with the provisions of this part and its purposes.

(c) Notwithstanding any other law, the taxes imposed by this part and the revenue derived therefrom, including investment interest, shall not be considered to be part of the General Fund, as that term is used in Chapter 1 (commencing with Section 16300) of Part 2 of Division 4 of the Government Code, shall not be considered General Fund revenue for purposes of Section 8 of Article XVI of the California Constitution and its implementing statutes, and shall not be considered "moneys" for purposes of

subdivisions (a) and (b) of Section 8 of Article XVI of the California Constitution and its implementing statutes.

34019. (a) Beginning with fiscal year 2017–2018 the Department of Finance shall estimate revenues to be received pursuant to Sections 34011 and 34012 and provide those estimates to the Controller no later than June 15 of each year. The Controller shall use these estimates when disbursing funds pursuant to this section. Before any funds are disbursed pursuant to subdivisions (b), (c), (d), and (e) of this section, the Controller shall disburse from the Tax Fund to the appropriate account, without regard to fiscal year, the following:

(1) Reasonable costs incurred by the board for administering and collecting the taxes imposed by this part; provided, however, such costs shall not exceed 4 percent of tax revenues received.

(2) Reasonable costs incurred by the bureau, the Department of Consumer Affairs, the Department of Food and Agriculture, and the State Department of Public Health for implementing, administering, and enforcing Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code and Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not reimbursed pursuant to Section 26180 of the Business and Professions Code or pursuant to Chapter 3.5 (commencing with Section 19300) of Division 8 of the Business and Professions Code. This paragraph shall remain operative through fiscal year 2022–2023.

(3) Reasonable costs incurred by the Department of Fish and Wildlife, the State Water Resources Control Board, and the Department of Pesticide Regulation for carrying out their respective duties under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code to the extent those costs are not otherwise reimbursed.

(4) Reasonable costs incurred by the Controller for performing duties imposed by the Control, Regulate and Tax Adult Use of Marijuana Act, including the audit required by Section 34020.

(5) Reasonable costs incurred by the State Auditor for conducting the performance audit pursuant to Section 26191 of the Business and Professions Code.

(6) Reasonable costs incurred by the Legislative Analyst's Office for performing duties imposed by Section 34017.

(7) Sufficient funds to reimburse the Division of Labor Standards Enforcement and the Division of Occupational Safety and Health within the Department of Industrial Relations and the Employment Development Department for the costs of applying and enforcing state labor laws to licensees under Chapter 3.5 (commencing with Section 19300) of Division 8 and Division 10 (commencing with Section 26000) of the Business and Professions Code.

(b) The Controller shall next disburse the sum of ten million dollars ($10,000,000) to a public university or universities in California annually beginning with fiscal year 2018–2019 until fiscal year 2028–2029 to research and evaluate the implementation and effect of the Control, Regulate and Tax Adult Use of Marijuana Act, and shall, if appropriate, make recommendations to the Legislature and Governor regarding possible amendments to the Control, Regulate and Tax Adult Use of Marijuana Act. The recipients of these funds shall publish reports on their findings at a minimum of every two years and shall make the reports available to the public. The bureau shall select the universities to be funded. The research funded pursuant to this subdivision shall include but not necessarily be limited to:

(1) Impacts on public health, including health costs associated with marijuana use, as well as whether marijuana use is associated with an increase or decrease in use of alcohol or other drugs.

(2) The impact of treatment for maladaptive marijuana use and the effectiveness of different treatment programs.

(3) Public safety issues related to marijuana use, including studying the effectiveness of the packaging and labeling requirements and advertising and marketing restrictions contained in the act at preventing underage access to and use of marijuana and marijuana products, and studying the health-related effects among users of varying potency levels of marijuana and marijuana products.

(4) Marijuana use rates, maladaptive use rates for adults and youth, and diagnosis rates of marijuana-related substance use disorders.

(5) Marijuana market prices, illicit market prices, tax structures and rates, including an evaluation of how to best tax marijuana based on potency, and the structure and function of licensed marijuana businesses.

(6) Whether additional protections are needed to prevent unlawful monopolies or anti-competitive behavior from occurring in the nonmedical marijuana industry and, if so, recommendations as to the most effective measures for preventing such behavior.

(7) The economic impacts in the private and public sectors, including, but not necessarily limited to, job creation, workplace safety, revenues, taxes generated for state and local budgets, and criminal justice impacts, including, but not necessarily limited to, impacts on law enforcement and public resources, short and long term consequences of involvement in the criminal justice system, and state and local government agency administrative costs and revenue.

(8) Whether the regulatory agencies tasked with implementing and enforcing the Control, Regulate and Tax Adult Use of Marijuana Act are doing so consistent with the purposes of the act, and whether different agencies might do so more effectively.

(9) Environmental issues related to marijuana production and the criminal prohibition of marijuana production.

(10) The geographic location, structure, and function of licensed marijuana businesses, and demographic data, including race, ethnicity, and gender, of license holders.

(11) The outcomes achieved by the changes in criminal penalties made under the Control, Regulate and Tax Adult Use of Marijuana Act for marijuana-related offenses, and the outcomes of the juvenile justice system, in particular, probation-based treatments and the frequency of up-charging illegal possession of marijuana or marijuana products to a more serious offense.

(c) The Controller shall next disburse the sum of three million dollars ($3,000,000) annually to the Department of the California Highway Patrol beginning fiscal year 2018–2019 until fiscal year 2022–2023 to establish and adopt protocols to determine whether a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products, and to establish and

adopt protocols setting forth best practices to assist law enforcement agencies. The department may hire personnel to establish the protocols specified in this subdivision. In addition, the department may make grants to public and private research institutions for the purpose of developing technology for determining when a driver is operating a vehicle while impaired, including impairment by the use of marijuana or marijuana products.

(d) The Controller shall next disburse the sum of ten million dollars ($10,000,000) beginning fiscal year 2018–2019 and increasing ten million dollars ($10,000,000) each fiscal year thereafter until fiscal year 2022–2023, at which time the disbursement shall be fifty million dollars ($50,000,000) each year thereafter, to the Governor's Office of Business and Economic Development, in consultation with the Labor and Workforce Development Agency and the State Department of Social Services, to administer a community reinvestments grants program to local health departments and at least 50 percent to qualified community-based nonprofit organizations to support job placement, mental health treatment, substance use disorder treatment, system navigation services, legal services to address barriers to reentry, and linkages to medical care for communities disproportionately affected by past federal and state drug policies. The office shall solicit input from community-based job skills, job placement, and legal service providers with relevant expertise as to the administration of the grants program. In addition, the office shall periodically evaluate the programs it is funding to determine the effectiveness of the programs, shall not spend more than 4 percent for administrative costs related to implementation, evaluation and oversight of the programs, and shall award grants annually, beginning no later than January 1, 2020.

(e) The Controller shall next disburse the sum of two million dollars ($2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research to further the objectives of the center including the enhanced understanding of the efficacy and adverse effects of marijuana as a pharmacological agent.

(f) By July 15 of each fiscal year beginning in fiscal year 2018–2019, the Controller shall, after disbursing funds pursuant to subdivisions (a), (b), (c), (d), and (e), disburse funds deposited in the Tax Fund during the prior fiscal year into sub-trust accounts, which are hereby created, as follows:

(1) Sixty percent shall be deposited in the Youth Education, Prevention, Early Intervention and Treatment Account, and disbursed by the Controller to the State Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance use. The State Department of Health Care Services shall enter into interagency agreements with the State Department of Public Health and the State Department of Education to implement and administer these programs. The programs shall emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth, their families and caregivers. The programs may include, but are not limited to, the following components:

(A) Prevention and early intervention services including outreach, risk survey and education to youth, families, caregivers, schools, primary care health providers, behavioral health and substance use disorder service providers, community and faith-based organizations, foster care providers, juvenile and family courts, and others to recognize and reduce risks related to substance use, and the early signs of problematic use and of substance use disorders.

(B) Grants to schools to develop and support student assistance programs, or other similar programs, designed to prevent and reduce substance use, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion that focus on school retention, remediation, and professional care. Schools with higher than average dropout rates should be prioritized for grants.

(C) Grants to programs for outreach, education and treatment for homeless youth and out-of-school youth with substance use disorders.

(D) Access and linkage to care provided by county behavioral health programs for youth, and their families and caregivers, who have a substance use disorder or who are at risk for developing a substance use disorder.

(E) Youth-focused substance use disorder treatment programs that are culturally and gender competent, trauma-informed, evidence-based and provide a continuum of care that includes screening and assessment (substance use disorder as well as mental health), early intervention, active treatment, family involvement, case management, overdose prevention, prevention of communicable diseases related to substance use, relapse management for substance use and other co-occurring behavioral health disorders, vocational services, literacy services, parenting classes, family therapy and counseling services, medication-assisted treatments, psychiatric medication and psychotherapy. When indicated, referrals must be made to other providers.

(F) To the extent permitted by law and where indicated, interventions shall utilize a two-generation approach to addressing substance use disorders with the capacity to treat youth and adults together. This would include supporting the development of family-based interventions that address substance use disorders and related problems within the context of families, including parents, foster parents, caregivers and all their children.

(G) Programs to assist individuals, as well as families and friends of drug using young people, to reduce the stigma associated with substance use including being diagnosed with a substance use disorder or seeking substance use disorder services. This includes peer-run outreach and education to reduce stigma, anti-stigma campaigns, and community recovery networks.

(H) Workforce training and wage structures that increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise. Provide ongoing education and coaching that increases substance use treatment providers' core competencies and trains providers on promising and evidenced-based practices.

(I) Construction of community-based youth treatment facilities.

(J) The departments may contract with each county behavioral health program for the provision of services.

(K) Funds shall be allocated to counties based on demonstrated need, including the number of youth in the county, the prevalence of substance use disorders among adults, and confirmed through statistical data, validated

assessments or submitted reports prepared by the applicable county to demonstrate and validate need.

(L) The departments shall periodically evaluate the programs they are funding to determine the effectiveness of the programs.

(M) The departments may use up to 4 percent of the moneys allocated to the Youth Education, Prevention, Early Intervention and Treatment Account for administrative costs related to implementation, evaluation and oversight of the programs.

(N) If the Department of Finance ever determines that funding pursuant to marijuana taxation exceeds demand for youth prevention and treatment services in the state, the departments shall provide a plan to the Department of Finance to provide treatment services to adults as well as youth using these funds.

(O) The departments shall solicit input from volunteer health organizations, physicians who treat addiction, treatment researchers, family therapy and counseling providers, and professional education associations with relevant expertise as to the administration of any grants made pursuant to this paragraph.

(2) Twenty percent shall be deposited in the Environmental Restoration and Protection Account, and disbursed by the Controller as follows:

(A) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the cleanup, remediation, and restoration of environmental damage in watersheds affected by marijuana cultivation and related activities including, but not limited to, damage that occurred prior to enactment of this part, and to support local partnerships for this purpose. The Department of Fish and Wildlife and the Department of Parks and Recreation may distribute a portion of the funds they receive from the Environmental Restoration and Protection Account through grants for purposes specified in this paragraph.

(B) To the Department of Fish and Wildlife and the Department of Parks and Recreation for the stewardship and operation of state-owned wildlife habitat areas and state park units in a manner that discourages and prevents the illegal cultivation, production, sale and use of marijuana and marijuana products on public lands, and to facilitate the investigation, enforcement and prosecution of illegal cultivation, production, sale, and use of marijuana or marijuana products on public lands.

(C) To the Department of Fish and Wildlife to assist in funding the watershed enforcement program and multiagency taskforce established pursuant to subdivisions (b) and (c) of Section 12029 of the Fish and Game Code to facilitate the investigation, enforcement, and prosecution of these offenses and to ensure the reduction of adverse impacts of marijuana cultivation, production, sale, and use on fish and wildlife habitats throughout the state.

(D) For purposes of this paragraph, the Secretary of the Natural Resources Agency shall determine the allocation of revenues between the departments. During the first five years of implementation, first consideration should be given to funding purposes specified in subparagraph (A).

(E) Funds allocated pursuant to this paragraph shall be used to increase and enhance activities described in subparagraphs (A), (B), and (C), and not replace allocation of other funding for these purposes. Accordingly, annual General Fund appropriations to the Department of Fish and Wildlife and the Department of Parks and Recreation shall not be reduced below the levels provided in the Budget Act of 2014 (Chapter 25 of the Statutes of 2014).

(3) Twenty percent shall be deposited into the State and Local Government Law Enforcement Account and disbursed by the Controller as follows:

(A) To the Department of the California Highway Patrol for conducting training programs for detecting, testing and enforcing laws against driving under the influence of alcohol and other drugs, including driving under the influence of marijuana. The department may hire personnel to conduct the training programs specified in this subparagraph.

(B) To the Department of the California Highway Patrol to fund internal California Highway Patrol programs and grants to qualified nonprofit organizations and local governments for education, prevention and enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana; programs that help enforce traffic laws, educate the public in traffic safety, provide varied and effective means of reducing fatalities, injuries and economic losses from collisions; and for the purchase of equipment related to enforcement of laws related to driving under the influence of alcohol and other drugs, including marijuana.

(C) To the Board of State and Community Corrections for making grants to local governments to assist with law enforcement, fire protection, or other local programs addressing public health and safety associated with the implementation of the Control, Regulate and Tax Adult Use of Marijuana Act. The board shall not make any grants to local governments which have banned the cultivation, including personal cultivation under paragraph (3) of subdivision (b) of Section 11362.2 of the Health and Safety Code, or retail sale of marijuana or marijuana products pursuant to Section 26200 of the Business and Professions Code or as otherwise provided by law.

(D) For purposes of this paragraph, the Department of Finance shall determine the allocation of revenues between the agencies; provided, however, beginning in fiscal year 2022–2023 the amount allocated pursuant to subparagraph (A) shall not be less than ten million dollars ($10,000,000) annually and the amount allocated pursuant to subparagraph (B) shall not be less than forty million dollars ($40,000,000) annually. In determining the amount to be allocated before fiscal year 2022–2023 pursuant to this paragraph, the Department of Finance shall give initial priority to subparagraph (A).

(g) Funds allocated pursuant to subdivision (f) shall be used to increase the funding of programs and purposes identified and shall not be used to replace allocation of other funding for these purposes.

(h) Effective July 1, 2028, the Legislature may amend this section by majority vote to further the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act, including allocating funds to programs other than those specified in subdivisions (d) and (f). Any revisions pursuant to this subdivision shall not result in a reduction of funds to accounts established pursuant to subdivisions (d) and (f) in any subsequent year from the amount allocated to each account in fiscal year 2027–2028. Prior to July 1, 2028, the Legislature may not change the allocations to programs specified in subdivisions (d) and (f).

34020. The Controller shall periodically audit the Tax Fund to ensure that those funds are used and accounted for in a manner consistent with this part and as otherwise required by law.

34021. The taxes imposed by this part shall be in addition to any other tax imposed by a city, county, or city and county.

34021.5. (a) (1) A county may impose a tax on the privilege of cultivating, manufacturing, producing, processing, preparing, storing, providing, donating, selling, or distributing marijuana or marijuana products by a licensee operating under Chapter 3.5 (commencing with Section 19300) of Division 8 or Division 10 (commencing with Section 26000) of the Business and Professions Code.

(2) The board of supervisors shall specify in the ordinance proposing the tax the activities subject to the tax, the applicable rate or rates, the method of apportionment, if necessary, and the manner of collection of the tax. The tax may be imposed for general governmental purposes or for purposes specified in the ordinance by the board of supervisors.

(3) In addition to any other method of collection authorized by law, the board of supervisors may provide for the collection of the tax imposed pursuant to this section in the same manner, and subject to the same penalties and priority of lien, as other charges and taxes fixed and collected by the county. A tax imposed pursuant to this section is a tax and not a fee or special assessment. The board of supervisors shall specify whether the tax applies throughout the entire county or within the unincorporated area of the county.

(4) The tax authorized by this section may be imposed upon any or all of the activities set forth in paragraph (1), as specified in the ordinance, regardless of whether the activity is undertaken individually, collectively, or cooperatively, and regardless of whether the activity is for compensation or gratuitous, as determined by the board of supervisors.

(b) A tax imposed pursuant to this section shall be subject to applicable voter approval requirements imposed by law.

(c) This section is declaratory of existing law and does not limit or prohibit the levy or collection of any other fee, charge, or tax, or a license or service fee or charge upon, or related to, the activities set forth in subdivision (a) as otherwise provided by law. This section shall not be construed as a limitation upon the taxing authority of a county as provided by law.

(d) This section shall not be construed to authorize a county to impose a sales or use tax in addition to the sales and use tax imposed under an ordinance conforming to the provisions of Sections 7202 and 7203 of the Revenue and Taxation Code.

SEC. 8. Criminal Offenses, Records, and Resentencing.

SEC. 8.1. Section 11357 of the Health and Safety Code is amended to read:

11357. *Possession.* ~~(a) Except as authorized by law, every person who possesses any concentrated cannabis shall be punished by imprisonment in the county jail for a period of not more than one year or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment, except that such person may instead be punished pursuant to subdivision (h) of Section 1170 of the Penal Code if that person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.~~

~~(b)~~ *(a)* Except as authorized by law, ~~every person who possesses~~ *possession of* not more than 28.5 grams of marijuana, ~~other than~~ *or not more than four grams of* concentrated cannabis, ~~is guilty of an infraction punishable by a fine of not more than one hundred dollars ($100).~~ *or both, shall be punished or adjudicated as follows:*

(1) Persons under the age of 18 shall be guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete four hours of drug education or counseling and up to 10 hours of community service over a period not to exceed 60 days.

(B) Upon a finding that a second offense or subsequent offense has been committed, complete six hours of drug education or counseling and up to 20 hours of community service over a period not to exceed 90 days.

(2) Persons at least 18 years of age but less than 21 years of age shall be guilty of an infraction and punishable by a fine of not more than one hundred dollars ($100).

~~(c)~~ *(b)* Except as authorized by law, ~~every person who possesses~~ *possession of* more than 28.5 grams of marijuana, *or more than four grams of* ~~other than~~ concentrated cannabis, shall be punished *as follows:*

(1) Persons under the age of 18 who possess more than 28.5 grams of marijuana or more than four grams of concentrated cannabis, or both, shall be guilty of an infraction and shall be required to:

(A) Upon a finding that a first offense has been committed, complete eight hours of drug education or counseling and up to 40 hours of community service over a period not to exceed 90 days.

(B) Upon a finding that a second or subsequent offense has been committed, complete 10 hours of drug education or counseling and up to 60 hours of community service over a period not to exceed 120 days.

(*2) Persons 18 years of age or over who possess more than 28.5 grams of marijuana, or more than four grams of concentrated cannabis, or both, shall be punished* by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

~~(d)~~ *(c)* Except as authorized by law, every person 18 years of age or over who possesses not more than 28.5 grams of marijuana, *or not more than four grams of* ~~other than~~ concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of a misdemeanor and shall be punished ~~by a~~ *as follows:*

(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.

(2) A fine of not more than five hundred dollars ($500), or by imprisonment in a county jail for a period of not more than 10 days, or both, *upon a finding that a second or subsequent offense has been committed.*

~~(e)~~ *(d)* Except as authorized by law, every person under the age of 18 who possesses not more than 28.5 grams of

marijuana, *or not more than four grams of* ~~other than~~ concentrated cannabis, upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs is guilty of ~~a misdemeanor~~ *an infraction* and shall be *punished in the same manner provided in paragraph (1) of subdivision (b).* ~~subject to the following dispositions:~~

~~(1) A fine of not more than two hundred fifty dollars ($250), upon a finding that a first offense has been committed.~~

~~(2) A fine of not more than five hundred dollars ($500), or commitment to a juvenile hall, ranch, camp, forestry camp, or secure juvenile home for a period of not more than 10 days, or both, upon a finding that a second or subsequent offense has been committed.~~

SEC. 8.2. Section 11358 of the Health and Safety Code is amended to read:

11358. *Planting, Harvesting, or Processing.*

Every person who plants, cultivates, harvests, dries, or processes ~~any~~ marijuana *plants,* or any part thereof, except as otherwise provided by law, *shall be punished as follows:*

(a) Every person under the age of 18 who plants, cultivates, harvests, dries, or processes any marijuana plants shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person at least 18 years of age but less than 21 years of age who plants, cultivates, harvests, dries, or processes not more than six living marijuana plants shall be guilty of an infraction and a fine of not more than one hundred dollars ($100).

(c) Every person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(d) Notwithstanding subdivision (c), a person 18 years of age or over who plants, cultivates, harvests, dries, or processes more than six living marijuana plants, or any part thereof, except as otherwise provided by law, ~~shall~~ *may* be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code *if:*

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (c); or

(3) The offense resulted in any of the following:

(A) Violation of Section 1052 of the Water Code relating to illegal diversion of water;

(B) Violation of Section 13260, 13264, 13272, or 13387 of the Water Code relating to discharge of waste;

(C) Violation of Fish and Game Code Section 5650 or Section 5652 of the Fish and Game Code relating to waters of the state;

(D) Violation of Section 1602 of the Fish and Game Code relating to rivers, streams and lakes;

(E) Violation of Section 374.8 of the Penal Code relating to hazardous substances or Section 25189.5, 25189.6, or 25189.7 of the Health and Safety Code relating to hazardous waste;

(F) Violation of Section 2080 of the Fish and Game Code relating to endangered and threatened species or Section 3513 of the Fish and Game Code relating to the Migratory Bird Treaty Act; or

(G) Intentionally or with gross negligence causing substantial environmental harm to public lands or other public resources.

SEC. 8.3. Section 11359 of the Health and Safety Code is amended to read:

11359. *Possession for Sale.*

Every person who possesses for sale any marijuana, except as otherwise provided by law, shall be punished *as follows:*

(a) Every person under the age of 18 who possesses marijuana for sale shall be punished in the same manner provided in paragraph (1) of subdivision (b) of Section 11357.

(b) Every person 18 years of age or over who possesses marijuana for sale shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(c) Notwithstanding subdivision (b), a person 18 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code *if:*

(1) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(2) The person has two or more prior convictions under subdivision (b); or

(3) The offense occurred in connection with the knowing sale or attempted sale of marijuana to a person under the age of 18 years.

(d) Notwithstanding subdivision (b), a person 21 years of age or over who possesses marijuana for sale may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code if the offense involves knowingly hiring, employing, or using a person 20 years of age or younger in unlawfully cultivating, transporting, carrying, selling, offering to sell, giving away, preparing for sale, or peddling any marijuana.

SEC. 8.4. Section 11360 of the Health and Safety Code is amended to read:

11360. *Unlawful Transportation, Importation, Sale, or Gift.*

(a) Except as otherwise provided by this section or as authorized by law, every person who transports, imports into this state, sells, furnishes, administers, or gives away, or offers to transport, import into this state, sell, furnish, administer, or give away, or attempts to import into this state or transport any marijuana shall be punished *as follows:*

(1) Persons under the age of 18 years shall be punished in the same manner as provided in paragraph (1) of subdivision (b) of Section 11357.

(2) Persons 18 years of age or over shall be punished by imprisonment in a county jail for a period of not more than six months or by a fine of not more than five hundred dollars ($500), or by both such fine and imprisonment.

(3) Notwithstanding paragraph (2), a person 18 years of age or over may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for a period of two, three or four years *if:*

(A) The person has one or more prior convictions for an offense specified in clause (iv) of subparagraph (C) of paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code;

(B) The person has two or more prior convictions under paragraph (2);

(C) The offense involved the knowing sale, attempted sale, or the knowing offer to sell, furnish, administer or give away marijuana to a person under the age of 18 years; or

(D) The offense involved the import, offer to import, or attempted import into this state, or the transport for sale, offer to transport for sale, or attempted transport for sale out of this state, of more than 28.5 grams of marijuana or more than four grams of concentrated cannabis.

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(b) Except as authorized by law, every person who gives away, offers to give away, transports, offers to transport, or attempts to transport not more than 28.5 grams of marijuana, other than concentrated cannabis, is guilty of a*n infraction* ~~misdemeanor~~ and shall be punished by a fine of not more than one hundred dollars ($100). In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, such person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his *or her* written promise to appear in court, as provided in Section 853.6 of the Penal Code, and shall not be subjected to booking.

(c) For purposes of this section, "transport" means to transport for sale.

(d) This section does not preclude or limit prosecution for any aiding and abetting or conspiracy offenses.

SEC. 8.5. Section 11361.1 is added to the Health and Safety Code, to read:

11361.1. (a) The drug education and counseling requirements under Sections 11357, 11358, 11359, and 11360 shall be:

(1) Mandatory, unless the court finds that such drug education or counseling is unnecessary for the person, or that a drug education or counseling program is unavailable;

(2) Free to participants, and the drug education provides at least four hours of group discussion or instruction based on science and evidence-based principles and practices specific to the use and abuse of marijuana and other controlled substances.

(b) For good cause, the court may grant an extension of time not to exceed 30 days for a person to complete the drug education and counseling required under Sections 11357, 11358, 11359, and 11360.

SEC. 8.6. Section 11361.5 of the Health and Safety Code is amended to read:

11361.5. *Destruction of Arrest and Conviction Records; Procedure; Exceptions.*

(a) Records of any court of this state, any public or private agency that provides services upon referral under Section 1000.2 of the Penal Code, or of any state agency pertaining to the arrest or conviction of any person for a violation of ~~subdivision (b), (c), (d), or (e) of~~ Section 11357 or subdivision (b) of Section 11360, *or pertaining to the arrest or conviction of any person under the age of 18 for a violation of any provision of this article except Section 11357.5,* shall not be kept beyond two years from the date of the conviction, or from the date of the arrest if there was no conviction, except with respect to a violation of subdivision ~~(e)~~ *(d)* of Section 11357*, or any other violation by a person under the age of 18 occurring upon the grounds of, or within, any school providing instruction in kindergarten or any of grades 1 through 12 during hours the school is open for classes or school-related programs*, the records shall be retained until the offender attains the age of 18 years at which time the records shall be destroyed as provided in this section. Any court or agency having custody of the records, *including the statewide criminal databases,* shall provide for the timely destruction of the records in accordance with subdivision (c), *and such records must also be purged from the statewide criminal databases. As used in this subdivision, "records pertaining to the arrest or conviction" shall include records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. The two-year period beyond which records shall not be kept pursuant to this subdivision shall not apply to any person who is, at the time at which this subdivision would otherwise require record destruction, incarcerated for an offense subject to this subdivision. For such persons, the two-year period shall begin to run from the date the person is released from custody.* The requirements of this subdivision do not apply to records of any conviction occurring prior to January 1, 1976, or records of any arrest not followed by a conviction occurring prior to that date, *or records of any arrest for an offense specified in subdivision (c) of Section 1192.7, or subdivision (c) of Section 667.5 of the Penal Code.*

(b) This subdivision applies only to records of convictions and arrests not followed by conviction occurring prior to January 1, 1976, for any of the following offenses:

(1) Any violation of Section 11357 or a statutory predecessor thereof.

(2) Unlawful possession of a device, contrivance, instrument, or paraphernalia used for unlawfully smoking marijuana, in violation of Section 11364, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(3) Unlawful visitation or presence in a room or place in which marijuana is being unlawfully smoked or used, in violation of Section 11365, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

(4) Unlawfully using or being under the influence of marijuana, in violation of Section 11550, as it existed prior to January 1, 1976, or a statutory predecessor thereof.

Any person subject to an arrest or conviction for those offenses may apply to the Department of Justice for destruction of records pertaining to the arrest or conviction if two or more years have elapsed since the date of the conviction, or since the date of the arrest if not followed by a conviction. The application shall be submitted upon a form supplied by the Department of Justice and shall be

accompanied by a fee, which shall be established by the department in an amount which will defray the cost of administering this subdivision and costs incurred by the state under subdivision (c), but which shall not exceed thirty-seven dollars and fifty cents ($37.50). The application form may be made available at every local police or sheriff's department and from the Department of Justice and may require that information which the department determines is necessary for purposes of identification.

The department may request, but not require, the applicant to include a self-administered fingerprint upon the application. If the department is unable to sufficiently identify the applicant for purposes of this subdivision without the fingerprint or without additional fingerprints, it shall so notify the applicant and shall request the applicant to submit any fingerprints which may be required to effect identification, including a complete set if necessary, or, alternatively, to abandon the application and request a refund of all or a portion of the fee submitted with the application, as provided in this section. If the applicant fails or refuses to submit fingerprints in accordance with the department's request within a reasonable time which shall be established by the department, or if the applicant requests a refund of the fee, the department shall promptly mail a refund to the applicant at the address specified in the application or at any other address which may be specified by the applicant. However, if the department has notified the applicant that election to abandon the application will result in forfeiture of a specified amount which is a portion of the fee, the department may retain a portion of the fee which the department determines will defray the actual costs of processing the application, provided the amount of the portion retained shall not exceed ten dollars ($10).

Upon receipt of a sufficient application, the Department of Justice shall destroy records of the department, if any, pertaining to the arrest or conviction in the manner prescribed by subdivision (c) and shall notify the Federal Bureau of Investigation, the law enforcement agency which arrested the applicant, and, if the applicant was convicted, the probation department which investigated the applicant and the Department of Motor Vehicles, of the application.

(c) Destruction of records of arrest or conviction pursuant to subdivision (a) or (b) shall be accomplished by permanent obliteration of all entries or notations upon the records pertaining to the arrest or conviction, and the record shall be prepared again so that it appears that the arrest or conviction never occurred. However, where (1) the only entries upon the record pertain to the arrest or conviction and (2) the record can be destroyed without necessarily effecting the destruction of other records, then the document constituting the record shall be physically destroyed.

(d) Notwithstanding subdivision (a) or (b), written transcriptions of oral testimony in court proceedings and published judicial appellate reports are not subject to this section. Additionally, no records shall be destroyed pursuant to subdivision (a) if the defendant or a codefendant has filed a civil action against the peace officers or law enforcement jurisdiction which made the arrest or instituted the prosecution and if the agency which is the custodian of those records has received a certified copy of the complaint in the civil action, until the civil action has finally been resolved. Immediately following the final resolution of the civil action, records subject to subdivision (a) shall be destroyed pursuant to subdivision (c) if more than two years have elapsed from the date of the conviction or arrest without conviction.

SEC. 8.7. Section 11361.8 is added to the Health and Safety Code, to read:

11361.8. (a) A person currently serving a sentence for a conviction, whether by trial or by open or negotiated plea, who would not have been guilty of an offense, or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense may petition for a recall or dismissal of sentence before the trial court that entered the judgment of conviction in his or her case to request resentencing or dismissal in accordance with Sections 11357, 11358, 11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(b) Upon receiving a petition under subdivision (a), the court shall presume the petitioner satisfies the criteria in subdivision (a) unless the party opposing the petition proves by clear and convincing evidence that the petitioner does not satisfy the criteria. If the petitioner satisfies the criteria in subdivision (a), the court shall grant the petition to recall the sentence or dismiss the sentence because it is legally invalid unless the court determines that granting the petition would pose an unreasonable risk of danger to public safety.

(1) In exercising its discretion, the court may consider, but shall not be limited to evidence provided for in subdivision (b) of Section 1170.18 of the Penal Code.

(2) As used in this section, "unreasonable risk of danger to public safety" has the same meaning as provided in subdivision (c) of Section 1170.18 of the Penal Code.

(c) A person who is serving a sentence and is resentenced pursuant to subdivision (b) shall be given credit for any time already served and shall be subject to supervision for one year following completion of his or her time in custody or shall be subject to whatever supervision time he or she would have otherwise been subject to after release, whichever is shorter, unless the court, in its discretion, as part of its resentencing order, releases the person from supervision. Such person is subject to parole supervision under Section 3000.08 of the Penal Code or post-release community supervision under subdivision (a) of Section 3451 of the Penal Code by the designated agency and the jurisdiction of the court in the county in which the offender is released or resides, or in which an alleged violation of supervision has occurred, for the purpose of hearing petitions to revoke supervision and impose a term of custody.

(d) Under no circumstances may resentencing under this section result in the imposition of a term longer than the original sentence, or the reinstatement of charges dismissed pursuant to a negotiated plea agreement.

(e) A person who has completed his or her sentence for a conviction under Sections 11357, 11358, 11359, and 11360, whether by trial or open or negotiated plea, who would not have been guilty of an offense or who would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act had that act been in effect at the time of the offense, may file an application before the trial court that entered the judgment of conviction in his or her case to have the conviction dismissed and sealed because the prior conviction is now legally invalid or redesignated as a misdemeanor or infraction in accordance with Sections 11357, 11358,

11359, 11360, 11362.1, 11362.2, 11362.3, and 11362.4 as those sections have been amended or added by that act.

(f) The court shall presume the petitioner satisfies the criteria in subdivision (e) unless the party opposing the application proves by clear and convincing evidence that the petitioner does not satisfy the criteria in subdivision (e). Once the applicant satisfies the criteria in subdivision (e), the court shall redesignate the conviction as a misdemeanor or infraction or dismiss and seal the conviction as legally invalid as now established under the Control, Regulate and Tax Adult Use of Marijuana Act.

(g) Unless requested by the applicant, no hearing is necessary to grant or deny an application filed under subdivision (e).

(h) Any felony conviction that is recalled and resentenced under subdivision (b) or designated as a misdemeanor or infraction under subdivision (f) shall be considered a misdemeanor or infraction for all purposes. Any misdemeanor conviction that is recalled and resentenced under subdivision (b) or designated as an infraction under subdivision (f) shall be considered an infraction for all purposes.

(i) If the court that originally sentenced the petitioner is not available, the presiding judge shall designate another judge to rule on the petition or application.

(j) Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the petitioner or applicant.

(k) Nothing in this and related sections is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of the Control, Regulate and Tax Adult Use of Marijuana Act.

(l) A resentencing hearing ordered under the Control, Regulate and Tax Adult Use of Marijuana Act shall constitute a "post-conviction release proceeding" under paragraph (7) of subdivision (b) of Section 28 of Article I of the California Constitution (Marsy's Law).

(m) The provisions of this section shall apply equally to juvenile delinquency adjudications and dispositions under Section 602 of the Welfare and Institutions Code if the juvenile would not have been guilty of an offense or would have been guilty of a lesser offense under the Control, Regulate and Tax Adult Use of Marijuana Act.

(n) The Judicial Council shall promulgate and make available all necessary forms to enable the filing of the petitions and applications provided in this section.

SEC. 9. Industrial Hemp.

SEC. 9.1. Section 11018.5 of the Health and Safety Code is amended to read:

11018.5. *Industrial Hemp.*

(a) "Industrial hemp" means a fiber or oilseed crop, or both, that is limited to ~~nonpsychoactive~~ types of the plant Cannabis sativa L. ~~and the seed produced therefrom,~~ having no more than three-tenths of 1 percent tetrahydrocannabinol (THC) contained in the dried flowering tops, *whether growing or not;* ~~and that is cultivated and processed exclusively for the purpose of producing the mature stalks of the plant, fiber produced from the stalks, oil or cake made from~~ the seeds of the plant~~,~~ *the resin extracted from any part of the plant; and* ~~or any other~~ *every* compound, manufacture, salt, derivative, mixture, or preparation of the *plant, its seeds or* ~~mature stalks, except the~~ resin ~~or flowering tops extracted~~ *produced* therefrom~~, fiber, oil, or cake, or the sterilized seed, or any component of the seed, of the plant that is incapable of germination~~.

(b) The possession, use, purchase, sale, cultivation, processing, manufacture, packaging, labeling, transporting, storage, distribution, use and transfer of industrial hemp shall not be subject to the provisions of this division or of Division 10 (commencing with Section 26000) of the Business and Professions Code, but instead shall be regulated by the Department of Food and Agriculture in accordance with the provisions of Division 24 (commencing with Section 81000) of the Food and Agricultural Code, inclusive.

SEC. 9.2. Section 81000 of the Food and Agricultural Code is amended to read:

81000. *Definitions.*

For purposes of this division, the following terms have the following meanings:

(a) "Board" means the Industrial Hemp Advisory Board.

(b) "Commissioner" means the county agricultural commissioner.

(c) "Established agricultural research institution" means ~~a public or private institution or organization that maintains land for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers.~~ *any institution that is either:*

(1) A public or private institution or organization that maintains land or facilities for agricultural research, including colleges, universities, agricultural research centers, and conservation research centers; or

(2) An institution of higher education (as defined in Section 1001 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that grows, cultivates or manufactures industrial hemp for purposes of research conducted under an agricultural pilot program or other agricultural or academic research.

(d) "Industrial hemp" has the same meaning as that term is defined in Section 11018.5 of the Health and Safety Code.

(e) "Secretary" means the Secretary of Food and Agriculture.

(f) "Seed breeder" means an individual or public or private institution or organization that is registered with the commissioner to develop seed cultivars intended for sale or research.

(g) "Seed cultivar" means a variety of industrial hemp.

(h) "Seed development plan" means a strategy devised by a seed breeder, or applicant seed breeder, detailing his or her planned approach to growing and developing a new seed cultivar for industrial hemp.

SEC. 9.3. Section 81006 of the Food and Agricultural Code is amended to read:

81006. *Industrial Hemp Growth Limitations; Prohibitions; Imports; Laboratory Testing.*

(a) (1) Except when grown by an established agricultural research institution or a registered seed breeder, industrial hemp shall be grown only as a densely planted fiber or oilseed crop, or both, in acreages of not less than ~~five acres~~ *one-tenth of an acre* at the same time ~~and no portion of an~~

~~acreage of industrial hemp shall include plots of less than one contiguous acre~~.

(2) Registered seed breeders, for purposes of seed production, shall only grow industrial hemp as a densely planted crop in acreages of not less than *one-tenth of an* ~~two~~ acre~~s~~ at the same time ~~and no portion of the acreage of industrial hemp shall include plots of less than one contiguous acre~~.

(3) Registered seed breeders, for purposes of developing a new California seed cultivar, shall grow industrial hemp as densely as possible in dedicated acreage of not less than one-*tenth of an* acre and in accordance with the seed development plan. The entire area of the dedicated acreage is not required to be used for the cultivation of the particular seed cultivar.

(b) Ornamental and clandestine cultivation of industrial hemp is prohibited. All plots shall have adequate signage indicating they are industrial hemp.

(c) Pruning and tending of individual industrial hemp plants is prohibited, except when grown by an established agricultural research institution or when the action is necessary to perform the tetrahydrocannabinol (THC) testing described in this section.

(d) Culling of industrial hemp is prohibited, except when grown by an established agricultural research institution, when the action is necessary to perform the THC testing described in this section, or for purposes of seed production and development by a registered seed breeder.

(e) Industrial hemp shall include products imported under the Harmonized Tariff Schedule of the United States (2013) of the United States International Trade Commission, including, but not limited to, hemp seed, per subheading 1207.99.03, hemp oil, per subheading 1515.90.80, oilcake, per subheading 2306.90.01, true hemp, per heading 5302, true hemp yarn, per subheading 5308.20.00, and woven fabrics of true hemp fibers, per subheading 5311.00.40.

(f) Except when industrial hemp is grown by an established agricultural research institution, a registrant that grows industrial hemp under this section shall, before the harvest of each crop and as provided below, obtain a laboratory test report indicating the THC levels of a random sampling of the dried flowering tops of the industrial hemp grown.

(1) Sampling shall occur as soon as practicable when the THC content of the leaves surrounding the seeds is at its peak and shall commence as the seeds begin to mature, when the first seeds of approximately 50 percent of the plants are resistant to compression.

(2) The entire fruit-bearing part of the plant including the seeds shall be used as a sample. The sample cut shall be made directly underneath the inflorescence found in the top one-third of the plant.

(3) The sample collected for THC testing shall be accompanied by the following documentation:

(A) The registrant's proof of registration.

(B) Seed certification documentation for the seed cultivar used.

(C) The THC testing report for each certified seed cultivar used.

(4) The laboratory test report shall be issued by a laboratory registered with the federal Drug Enforcement Administration, shall state the percentage content of THC, shall indicate the date and location of samples taken, and shall state the Global Positioning System coordinates and total acreage of the crop. If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the words "PASSED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report. If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent, the words "FAILED AS CALIFORNIA INDUSTRIAL HEMP" shall appear at or near the top of the laboratory test report.

(5) If the laboratory test report indicates a percentage content of THC that is equal to or less than three-tenths of 1 percent, the laboratory shall provide the person who requested the testing not less than 10 original copies signed by an employee authorized by the laboratory and shall retain one or more original copies of the laboratory test report for a minimum of two years from its date of sampling.

(6) If the laboratory test report indicates a percentage content of THC that is greater than three-tenths of 1 percent and does not exceed 1 percent, the registrant that grows industrial hemp shall submit additional samples for testing of the industrial hemp grown.

(7) A registrant that grows industrial hemp shall destroy the industrial hemp grown upon receipt of a first laboratory test report indicating a percentage content of THC that exceeds 1 percent or a second laboratory test report pursuant to paragraph (6) indicating a percentage content of THC that exceeds three-tenths of 1 percent but is less than 1 percent. If the percentage content of THC exceeds 1 percent, the destruction shall take place within 48 hours after receipt of the laboratory test report. If the percentage content of THC in the second laboratory test report exceeds three-tenths of 1 percent but is less than 1 percent, the destruction shall take place as soon as practicable, but no later than 45 days after receipt of the second test report.

(8) A registrant that intends to grow industrial hemp and who complies with this section shall not be prosecuted for the cultivation or possession of marijuana as a result of a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent but does not exceed 1 percent.

(9) Established agricultural research institutions shall be permitted to cultivate or possess industrial hemp with a laboratory test report that indicates a percentage content of THC that is greater than three-tenths of 1 percent if that cultivation or possession contributes to the development of types of industrial hemp that will comply with the three-tenths of 1 percent THC limit established in this division.

(10) Except for an established agricultural research institution, a registrant that grows industrial hemp shall retain an original signed copy of the laboratory test report for two years from its date of sampling, make an original signed copy of the laboratory test report available to the department, the commissioner, or law enforcement officials or their designees upon request, and shall provide an original copy of the laboratory test report to each person purchasing, transporting, or otherwise obtaining from the registrant that grows industrial hemp the fiber, oil, cake, or seed, or any component of the seed, of the plant.

(g) If, in the Attorney General's opinion issued pursuant to Section 8 of the act that added this division, it is determined that the provisions of this section are not sufficient to comply with federal law, the department, in

consultation with the board, shall establish procedures for this section that meet the requirements of federal law.

SEC. 9.4. Section 81007 of the Food and Agricultural Code is repealed.

~~81007. (a) Except as provided in subdivision (b) or as necessary to perform testing pursuant to subdivision (f) of Section 81006, the possession, outside of a field of lawful cultivation, of resin, flowering tops, or leaves that have been removed from the hemp plant is prohibited.~~

~~(b) The presence of a de minimis amount, or insignificant number, of hemp leaves or flowering tops in hemp bales that result from the normal and appropriate processing of industrial hemp shall not constitute possession of marijuana.~~

SEC. 9.5. Section 81008 of the Food and Agricultural Code is amended to read:

81008. *Attorney General Reports; Requirements.*

(a) Not later than January 1, 2019, ~~or five years after the provisions of this division are authorized under federal law, whichever is later,~~ the Attorney General shall report to the Assembly and Senate Committees on Agriculture and the Assembly and Senate Committees on Public Safety the reported incidents, if any, of the following:

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(1) A field of industrial hemp being used to disguise marijuana cultivation.

(2) Claims in a court hearing by persons other than those exempted in subdivision (f) of Section 81006 that marijuana is industrial hemp.

(b) A report submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(c) Pursuant to Section 10231.5 of the Government Code, this section is repealed on January 1, 2023, or four years after the date that the report is due, whichever is later.

SEC. 9.6. Section 81010 of the Food and Agricultural Code is amended to read:

81010. *Operation of Division.*

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(a) This division*, and Section 221* shall ~~not~~ become operative ~~unless authorized under federal law~~ *on January 1, 2017.*

(b) The possession, use, purchase, sale, production, manufacture, packaging, labeling, transporting, storage, distribution, use, and transfer of industrial hemp shall be regulated in accordance with this division. The Bureau of Marijuana Control has authority to regulate and control plants and products that fit within the definition of industrial hemp but that are produced, processed, manufactured, tested, delivered, or otherwise handled pursuant to a license issued under Division 10 (commencing with Section 26000) of the Business and Professions Code.

SEC. 10. Amendment.

This act shall be broadly construed to accomplish its purposes and intent as stated in Section 3. The Legislature may by majority vote amend the provisions of this act contained in Sections 5 to 5.5, inclusive, and Sections 6 to 6.3, inclusive, to implement the substantive provisions of those sections, provided that such amendments are consistent with and further the purposes and intent of this act as stated in Section 3. Amendments to this act that enact protections for employees and other workers of licensees under Sections 6 to 6.3, inclusive, of this act that are in addition to the protections provided for in this act or that otherwise expand the legal rights of such employees or workers of licensees under Sections 6 to 6.3, inclusive, of this act shall be deemed to be consistent with and further the purposes and intent of this act. The Legislature may by majority vote amend, add, or repeal any provisions to further reduce the penalties for any of the offenses addressed by this act. Except as otherwise provided, the provisions of the act may be amended by a two-thirds vote of the Legislature to further the purposes and intent of the act.

SEC. 11. Construction and Intepretation.

The provisions of this act shall be liberally construed to effectuate the purposes and intent of the Control, Regulate and Tax the Adult Use of Marijuana Act; provided, however, no provision or provisions of this act shall be interpreted or construed in a manner to create a positive conflict with federal law, including the federal Controlled Substances Act, such that the provision or provisions of this act and federal law cannot consistently stand together.

SEC. 12. Severability.

If any provision in this act, or part thereof, or the application of any provision or part to any person or circumstance is held for any reason to be invalid or unconstitutional, the remaining provisions and parts shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

SEC. 13. Conflicting Initiatives.

In the event that this measure and another measure or measures concerning the control, regulation, and taxation of marijuana, medical marijuana, or industrial hemp 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.

PROPOSITION 65

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 Public Resources Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

PROPOSED LAW

SECTION 1. Title.

This act shall be known and may be cited as the Environmental Fee Protection Act.

SEC. 2. Findings and Declarations.

The people of the State of California find and declare as follows:

(a) In 2014, the California State Legislature enacted a ban on plastic carryout bags after lobbying by special interests including the California Grocers Association.

(b) The law further mandated that stores sell every paper or reusable carryout bag they provide to consumers for a minimum of 10 cents. Stores can charge even more if they so choose, and the grocers and retailers are specifically

required by the law to keep these mandated sales charges as extra revenue.

(c) None of the sales charges on carryout bags required by state law will go to environmental purposes. The Legislature specifically wrote the law in such a way as to make these sales charges additional revenue to grocers and retailers.

(d) This special interest deal will provide grocers and retailers over $400 million in added revenue every year—all at the expense of California consumers and with little or no benefit to the environment.

(e) The people of California have every right to expect that any sales charges on carryout bags they are required by state law to pay are dedicated to protecting the environment, not enriching corporations.

SEC. 3. Statement of Purpose.

The purpose of the Environmental Fee Protection Act is to fulfill Californians' expectations by requiring that any charges on carryout bags paid by consumers in connection with, or to advance, any plastic bag ban are dedicated to appropriate and worthy environmental objectives like drought mitigation, recycling, clean drinking water supplies, parks, beach cleanup, litter removal, and wildlife habitat restoration.

SEC. 4. Chapter 5.2 (commencing with Section 42270) is added to Part 3 of Division 30 of the Public Resources Code, to read:

Chapter 5.2. Carryout Bag Charges: Environmental Protection and Enhancement

42270. This chapter shall be known, and may be cited, as the Environmental Fee Protection Act.

42271. (a) Notwithstanding any other provision of law, all moneys generated or collected by a store pursuant to a state law that bans free distribution of any type of carryout bag, and mandates the sale of any other type of carryout bag, shall be deposited into the Environmental Protection and Enhancement Fund, which is established in the State Treasury and administered by the Wildlife Conservation Board pursuant to Section 42272.

(b) For purposes of this chapter:

(1) "Store" means a retail establishment that meets any of the following requirements:

(A) A full-line, self-service retail store with gross annual sales of two million dollars ($2,000,000) or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items.

(B) Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(C) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(D) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(2) "State law" means any statute, law, regulation, or other legal authority adopted, enacted, or implemented before or after the effective date of this section by the State of California or any agency or department thereof.

(3) "Carryout bag" means single-use carryout bags, paper bags, recycled paper bags, plastic bags, recyclable plastic bags, reusable plastic bags, compostable bags, reusable grocery bags, or any other kind of bags used to carry purchased items away from a store.

(c) (1) The Wildlife Conservation Board may adopt regulations, and coordinate or contract with other state or local agencies, in furtherance of the administration and implementation of subdivision (a) of this section, Section 42272, and Section 42273.

(2) Notwithstanding any other provision of law, a loan in the amount of five hundred thousand dollars ($500,000) is hereby made from the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 (Section 75009) to the Wildlife Conservation Board for the purpose of adopting regulations for the administration and implementation of subdivision (a) of this section, Section 42272, and Section 42273. If the moneys in the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Fund of 2006 are insufficient to make the loan required by this paragraph, then the loan shall be made from the Water Quality, Supply, and Infrastructure Improvement Fund of 2014 (Section 79715 of the Water Code). All moneys deposited into the Environmental Protection and Enhancement Fund shall first be used to repay the loan until the full loan amount is repaid. The Controller and all other responsible state officials shall take all actions necessary to effectuate the loan required by this paragraph.

42272. (a) The Environmental Protection and Enhancement Fund is hereby established in the State Treasury.

(b) Notwithstanding any other provision of law, the Environmental Protection and Enhancement Fund is a trust fund established solely to carry out the purposes of this chapter. Notwithstanding Section 13340 of the Government Code, all moneys deposited in the fund, together with interest earned by the fund, are hereby continuously appropriated, without regard to fiscal years, to the Wildlife Conservation Board solely for the purposes set forth in subdivision (c).

(c) The Wildlife Conservation Board shall use the moneys in the Environmental Protection and Enhancement Fund to fund environmental protection and enhancement grants. Projects and programs eligible for grants are as follows:

(1) Drought mitigation projects including, but not limited to, drought-stressed forest remediation and projects that expand or restore wetlands, fish habitat, or waterfowl habitat.

(2) Recycling.

(3) Clean drinking water supplies.

(4) State, regional, and local parks.

(5) Beach cleanup.

(6) Litter removal.

(7) Wildlife habitat restoration.

(d) The Wildlife Conservation Board shall use no more than 2 percent of the moneys in the Environmental Protection and Enhancement Fund for administrative

expenses. Grant recipients shall use no more than 5 percent of any moneys received for administrative expenses.

(e) Prior to disbursing any grants pursuant to this chapter, the Wildlife Conservation Board shall develop project solicitation and evaluation guidelines. The guidelines may include a limitation on the dollar amounts of grants to be awarded. Prior to finalizing the guidelines, the Wildlife Conservation Board shall post the draft guidelines on its Internet Web site and conduct three public hearings to consider public comments. One public hearing shall be held in Northern California, one hearing shall be held in the Central Valley, and one hearing shall be held in Southern California.

(f) (1) The nonpartisan California State Auditor shall conduct a biennial independent financial audit of the programs receiving funds pursuant to this chapter. The California State Auditor shall report its findings to the Governor and both houses of the Legislature, and shall make the findings available to the public on its Internet Web site.

(2) (A) The California State Auditor shall be reimbursed from moneys in the Environmental Protection and Enhancement Fund for actual costs incurred in conducting the biennial audits required by this subdivision, in an amount not to exceed four hundred thousand dollars ($400,000) per audit.

(B) The four hundred thousand dollar ($400,000) per audit maximum limit shall be adjusted biennially to reflect any increase or decrease in inflation as measured by the Consumer Price Index for All Urban Consumers (CPI-U). The Treasurer's office shall calculate and publish the adjustments required by this paragraph.

42273. (a) Notwithstanding any other law, local governments may require moneys generated or collected pursuant to any local law that bans free distribution of any type of carryout bag, and mandates the sale of any other type of carryout bag, to be deposited into the Environmental Protection and Enhancement Fund and used for the purposes set forth in Section 42272.

(b) For purposes of this section, "local law" means any ordinance, resolution, law, regulation, or other legal authority adopted, enacted, or implemented by any city, county, city and county, charter city, charter county, special district, school district, community college, or other local or regional governmental entity.

SEC. 5. Liberal Construction.

This act shall be liberally construed in order to effectuate its purposes.

SEC. 6. Conflicting Measures.

(a) In the event that this measure and another measure or measures relating to the use of moneys generated or collected by stores pursuant to laws that ban free distribution, and mandates the sale, of any or all types of carryout bags shall appear on the same statewide election ballot, 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 or measures shall be null and void.

(b) If this measure is approved by the voters but superseded in whole or in part by any other conflicting initiative approved by the voters at the same election, and such conflicting initiative is later held invalid, this measure shall be self-executing and given full force and effect.

SEC. 7. Severability.

The provisions of this act are severable. If any portion, section, subdivision, paragraph, clause, sentence, phrase, word, or application of this act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this act. The people of the State of California hereby declare that they would have adopted this act and each and every portion, section, subdivision, paragraph, clause, sentence, phrase, word, and application not declared invalid or unconstitutional without regard to whether any portion of this act or application thereof would be subsequently declared invalid.

SEC. 8. Legal Defense.

If this act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of federal law, and both the Governor and Attorney General refuse to defend this act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 (commencing with Section 12500) of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

(b) Before appointing or thereafter substituting independent counsel, the Attorney General shall exercise due diligence in determining the qualifications of independent counsel and shall obtain written affirmation from independent counsel that independent counsel will faithfully and vigorously defend this act. The written affirmation shall be made publicly available upon request.

(c) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of retaining independent counsel to faithfully and vigorously defend this act on behalf of the State of California.

PROPOSITION 66

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 and adds sections to the Government Code and the Penal 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

SECTION 1. Short Title.

This Act shall be known and may be cited as the Death Penalty Reform and Savings Act of 2016.

SEC. 2. Findings and Declarations.

1. California's death penalty system is ineffective because of waste, delays, and inefficiencies. Fixing it will save California taxpayers millions of dollars every year. These wasted taxpayer dollars would be better used for crime prevention, education, and services for the elderly and disabled.

2. Murder victims and their families are entitled to justice and due process. Death row killers have murdered over 1,000 victims, including 229 children and 43 police officers; 235 victims were raped and 90 victims were tortured.

3. Families of murder victims should not have to wait decades for justice. These delays further victimize the families who are waiting for justice. For example, serial killer Robert Rhoades, who kidnapped, raped, tortured, and murdered 8-year-old Michael Lyons and also raped and murdered Bay Area high school student Julie Connell, has been sitting on death row for over 16 years. Hundreds of killers have sat on death row for over 20 years.

4. In 2012, the Legislative Analyst's Office found that eliminating special housing for death row killers will save tens of millions of dollars every year. These savings could be invested in our schools, law enforcement, and communities to keep us safer.

5. Death row killers should be required to work in prison and pay restitution to their victims' families consistent with the Victims' Bill of Rights (Marsy's Law). Refusal to work and pay restitution should result in loss of special privileges.

6. Reforming the existing inefficient appeals process for death penalty cases will ensure fairness for both defendants and victims. Right now, capital defendants wait five years or more for appointment of their appellate lawyer. By providing prompt appointment of attorneys, the defendants' claims will be heard sooner.

7. A defendant's claim of actual innocence should not be limited, but frivolous and unnecessary claims should be restricted. These tactics have wasted taxpayer dollars and delayed justice for decades.

8. The state agency that is supposed to expedite secondary review of death penalty cases is operating without any effective oversight, causing long-term delays and wasting taxpayer dollars. California Supreme Court oversight of this state agency will ensure accountability.

9. Bureaucratic regulations have needlessly delayed enforcement of death penalty verdicts. Eliminating wasteful spending on repetitive challenges to these regulations will result in the fair and effective implementation of justice.

10. The California Constitution gives crime victims the right to timely justice. A capital case can be fully and fairly reviewed by both the state and federal courts within ten years. By adopting state rules and procedures, victims will receive timely justice and taxpayers will save hundreds of millions of dollars.

11. California's Death Row includes serial killers, cop killers, child killers, mass murderers, and hate crime killers. The death penalty system is broken, but it can and should be fixed. This initiative will ensure justice for both victims and defendants, and will save hundreds of millions of taxpayer dollars.

SEC. 3. Section 190.6 of the Penal Code is amended to read:

190.6. (a) The Legislature finds that the sentence in all capital cases should be imposed expeditiously.

(b) Therefore, in all cases in which a sentence of death has been imposed on or after January 1, 1997, the opening appellate brief in the appeal to the State Supreme Court shall be filed no later than seven months after the certification of the record for completeness under subdivision (d) of Section 190.8 or receipt by the appellant's counsel of the completed record, whichever is later, except for good cause. However, in those cases where the trial transcript exceeds 10,000 pages, the briefing shall be completed within the time limits and pursuant to the procedures set by the rules of court adopted by the Judicial Council.

(c) In all cases in which a sentence of death has been imposed on or after January 1, 1997, it is the Legislature's goal that the appeal be decided and an opinion reaching the merits be filed within 210 days of the completion of the briefing. However, where the appeal and a petition for writ of habeas corpus is heard at the same time, the petition should be decided and an opinion reaching the merits should be filed within 210 days of the completion of the briefing for the petition.

(d) The right of victims of crime to a prompt and final conclusion, as provided in paragraph (9) of subdivision (b) of Section 28 of Article I of the California Constitution, includes the right to have judgments of death carried out within a reasonable time. Within 18 months of the effective date of this initiative, the Judicial Council shall adopt initial rules and standards of administration designed to expedite the processing of capital appeals and state habeas corpus review. Within five years of the adoption of the initial rules or the entry of judgment, whichever is later, the state courts shall complete the state appeal and the initial state habeas corpus review in capital cases. The Judicial Council shall continuously monitor the timeliness of review of capital cases and shall amend the rules and standards as necessary to complete the state appeal and initial state habeas corpus proceedings within the five-year period provided in this subdivision.

~~(d)~~ *(e)* The failure of the parties or ~~the Supreme Court to meet or comply with the time limit provided by this section shall not be a ground for granting relief from a judgment of conviction or sentence of death~~ *of a court to comply with the time limit in subdivision (b) shall not affect the validity of the judgment or require dismissal of an appeal or habeas corpus petition. If a court fails to comply without extraordinary and compelling reasons justifying the delay, either party or any victim of the offense may seek relief by petition for writ of mandate. The court in which the petition is filed shall act on it within 60 days of filing. Paragraph (1) of subdivision (c) of Section 28 of Article I of the California Constitution, regarding standing to enforce victims' rights, applies to this subdivision and subdivision (d).*

SEC. 4. Section 1227 of the Penal Code is amended to read:

1227. *(a)* If for any reason other than the pendency of an appeal pursuant to subdivision (b) of Section 1239 of this code a judgment of death has not been executed, and it remains in force, the court in which the conviction was had shall, on application of the district attorney, or may upon its own motion, make and cause to be entered an order ~~appointing a day upon~~ *specifying a period of 10 days during* which the judgment shall be executed~~, which must not be less than 30 days nor more than 60 days from the time of making such order, and immediately thereafter~~. *The 10-day period shall begin no less than 30 days after the order is entered and shall end no more than 60 days after the order is entered. Immediately after the order is entered,* a certified copy of ~~such~~ *the* order, attested by the clerk, under the seal of the court, shall, for the purpose of execution, be transmitted by registered mail to the warden

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of the state prison having the custody of the defendant; provided, that if the defendant be at large, a warrant for his apprehension may be issued, and upon being apprehended, he shall be brought before the court, whereupon the court shall make an order directing the warden of the state prison to whom the sheriff is instructed to deliver the defendant to execute the judgment ~~at a specified time~~ *within a period of 10 days,* which shall not ~~be~~ *begin* less than 30 days nor *end* more than 60 days from the time of making such order.

(b) From an order fixing the time for and directing the execution of such judgment as herein provided, there shall be no appeal.

SEC. 5. Section 1239.1 is added to the Penal Code, to read:

1239.1. (a) It is the duty of the Supreme Court in a capital case to expedite the review of the case. The court shall appoint counsel for an indigent appellant as soon as possible. The court shall only grant extensions of time for briefing for compelling or extraordinary reasons.

(b) When necessary to remove a substantial backlog in appointment of counsel for capital cases, the Supreme Court shall require attorneys who are qualified for appointment to the most serious non-capital appeals and who meet the qualifications for capital appeals to accept appointment in capital cases as a condition for remaining on the court's appointment list. A "substantial backlog" exists for this purpose when the time from entry of judgment in the trial court to appointment of counsel for appeal exceeds 6 months over a period of 12 consecutive months.

SEC. 6. Section 1509 is added to the Penal Code, to read:

1509. (a) This section applies to any petition for writ of habeas corpus filed by a person in custody pursuant to a judgment of death. A writ of habeas corpus pursuant to this section is the exclusive procedure for collateral attack on a judgment of death. A petition filed in any court other than the court which imposed the sentence should be promptly transferred to that court unless good cause is shown for the petition to be heard by another court. A petition filed in or transferred to the court which imposed the sentence shall be assigned to the original trial judge unless that judge is unavailable or there is other good cause to assign the case to a different judge.

(b) After the entry of a judgment of death in the trial court, that court shall offer counsel to the prisoner as provided in Section 68662 of the Government Code.

(c) Except as provided in subdivisions (d) and (g), the initial petition must be filed within one year of the order entered under Section 68662 of the Government Code.

(d) An initial petition which is untimely under subdivision (c) or a successive petition whenever filed shall be dismissed unless the court finds, by the preponderance of all available evidence, whether or not admissible at trial, that the defendant is actually innocent of the crime of which he or she was convicted or is ineligible for the sentence. A stay of execution shall not be granted for the purpose of considering a successive or untimely petition unless the court finds that the petitioner has a substantial claim of actual innocence or ineligibility. "Ineligible for the sentence of death" means that circumstances exist placing that sentence outside the range of the sentencer's discretion. Claims of ineligibility include a claim that none of the special circumstances in subdivision (a) of Section 190.2 is true, a claim that the defendant was under the age of 18 at the time of the crime, or a claim that the defendant has an intellectual disability, as defined in Section 1376. A claim relating to the sentencing decision under Section 190.3 is not a claim of actual innocence or ineligibility for the purpose of this section.

(e) A petitioner claiming innocence or ineligibility under subdivision (d) shall disclose all material information relating to guilt or eligibility in the possession of the petitioner or present or former counsel for petitioner. If the petitioner willfully fails to make the disclosure required by this subdivision and authorize disclosure by counsel, the petition may be dismissed.

(f) Proceedings under this section shall be conducted as expeditiously as possible, consistent with a fair adjudication. The superior court shall resolve the initial petition within one year of filing unless the court finds that a delay is necessary to resolve a substantial claim of actual innocence, but in no instance shall the court take longer than two years to resolve the petition. On decision of an initial petition, the court shall issue a statement of decision explaining the factual and legal basis for its decision.

(g) If a habeas corpus petition is pending on the effective date of this section, the court may transfer the petition to the court which imposed the sentence. In a case where a judgment of death was imposed prior to the effective date of this section, but no habeas corpus petition has been filed prior to the effective date of this section, a petition that would otherwise be barred by subdivision (c) may be filed within one year of the effective date of this section or within the time allowed under prior law, whichever is earlier.

SEC. 7. Section 1509.1 is added to the Penal Code, to read:

1509.1. (a) Either party may appeal the decision of a superior court on an initial petition under Section 1509 to the court of appeal. An appeal shall be taken by filing a notice of appeal in the superior court within 30 days of the court's decision granting or denying the habeas petition. A successive petition shall not be used as a means of reviewing a denial of habeas relief.

(b) The issues considered on an appeal under subdivision (a) shall be limited to the claims raised in the superior court, except that the court of appeal may also consider a claim of ineffective assistance of trial counsel if the failure of habeas counsel to present that claim to the superior court constituted ineffective assistance. The court of appeal may, if additional findings of fact are required, make a limited remand to the superior court to consider the claim.

(c) The people may appeal the decision of the superior court granting relief on a successive petition. The petitioner may appeal the decision of the superior court denying relief on a successive petition only if the superior court or the court of appeal grants a certificate of appealability. A certificate of appealability may issue under this subdivision only if the petitioner has shown both a substantial claim for relief, which shall be indicated in the certificate, and a substantial claim that the requirements of subdivision (d) of Section 1509 have been met. An appeal under this subdivision shall be taken by filing a notice of appeal in the superior court within 30 days of the court's decision. The superior court shall grant or deny a certificate of appealability concurrently with a decision denying relief on the petition. The court of appeal shall grant or deny a

request for a certificate of appealability within 10 days of an application for a certificate. The jurisdiction of the court of appeal is limited to the claims identified in the certificate and any additional claims added by the court of appeal within 60 days of the notice of appeal. An appeal under this subdivision shall have priority over all other matters and be decided as expeditiously as possible.

SEC. 8. Section 2700.1 is added to the Penal Code, to read:

2700.1. Section 2700 applies to inmates sentenced to death, except as otherwise provided in this section.

Every person found guilty of murder, sentenced to death, and held by the Department of Corrections and Rehabilitation pursuant to Sections 3600 to 3602 shall be required to work as many hours of faithful labor each day he or she is so held as shall be prescribed the rules and regulations of the department.

Physical education and physical fitness programs shall not qualify as work for purposes of this section. The Department of Corrections and Rehabilitation may revoke the privileges of any condemned inmate who refuses to work as required by this section.

In any case where the condemned inmate owes a restitution fine or restitution order, the Secretary of the Department of Corrections and Rehabilitation shall deduct 70 percent or the balance owing, whichever is less, from the condemned inmate's wages and trust account deposits, regardless of the source of the income, and shall transfer those funds to the California Victim Compensation and Government Claims Board according to the rules and regulations of the Department of Corrections and Rehabilitation, pursuant to Sections 2085.5 and 2717.8.

SEC. 9. Section 3600 of the Penal Code is amended to read:

3600. ~~(a)~~ Every male person, upon whom has been imposed the judgment of death, shall be delivered to the warden of the California state prison designated by the department for the execution of the death penalty~~, there to be kept until the execution of the judgment, except as provided in subdivision (b)~~. *The inmate shall be kept in a California prison until execution of the judgment. The department may transfer the inmate to another prison which it determines to provide a level of security sufficient for that inmate. The inmate shall be returned to the prison designated for execution of the death penalty after an execution date has been set.*

~~(b) Notwithstanding any other provision of law:~~

~~(1) A condemned inmate who, while in prison, commits any of the following offenses, or who, as a member of a gang or disruptive group, orders others to commit any of these offenses, may, following disciplinary sanctions and classification actions at San Quentin State Prison, pursuant to regulations established by the Department of Corrections, be housed in secure condemned housing designated by the Director of Corrections, at the California State Prison, Sacramento:~~

~~(A) Homicide.~~

~~(B) Assault with a weapon or with physical force capable of causing serious or mortal injury.~~

~~(C) Escape with force or attempted escape with force.~~

~~(D) Repeated serious rules violations that substantially threaten safety or security.~~

~~(2) The condemned housing program at California State Prison, Sacramento, shall be fully operational prior to the transfer of any condemned inmate.~~

~~(3) Specialized training protocols for supervising condemned inmates shall be provided to those line staff and supervisors at the California State Prison, Sacramento, who supervise condemned inmates on a regular basis.~~

~~(4) An inmate whose medical or mental health needs are so critical as to endanger the inmate or others may, pursuant to regulations established by the Department of Corrections, be housed at the California Medical Facility or other appropriate institution for medical or mental health treatment. The inmate shall be returned to the institution from which the inmate was transferred when the condition has been adequately treated or is in remission.~~

~~(c) When housed pursuant to subdivision (b) the following shall apply:~~

~~(1) Those local procedures relating to privileges and classification procedures provided to Grade B condemned inmates at San Quentin State Prison shall be similarly instituted at California State Prison, Sacramento, for condemned inmates housed pursuant to paragraph (1) of subdivision (b) of Section 3600. Those classification procedures shall include the right to the review of a classification no less than every 90 days and the opportunity to petition for a return to San Quentin State Prison.~~

~~(2) Similar attorney-client access procedures that are afforded to condemned inmates housed at San Quentin State Prison shall be afforded to condemned inmates housed in secure condemned housing designated by the Director of Corrections, at the California State Prison, Sacramento. Attorney-client access for condemned inmates housed at an institution for medical or mental health treatment shall be commensurate with the institution's visiting procedures and appropriate treatment protocols.~~

~~(3) A condemned inmate housed in secure condemned housing pursuant to subdivision (b) shall be returned to San Quentin State Prison at least 60 days prior to his scheduled date of execution.~~

~~(4) No more than 15 condemned inmates may be rehoused pursuant to paragraph (1) of subdivision (b).~~

~~(d) Prior to any relocation of condemned row from San Quentin State Prison, whether proposed through legislation or any other means, all maximum security Level IV, 180-degree housing unit facilities with an electrified perimeter shall be evaluated by the Department of Corrections for suitability for the secure housing and execution of condemned inmates.~~

SEC. 10. Section 3604 of the Penal Code is amended to read:

3604. (a) The punishment of death shall be inflicted by the administration of a lethal gas or by an intravenous injection of a substance or substances in a lethal quantity sufficient to cause death, by standards established under the direction of the Department of Corrections *and Rehabilitation*.

(b) Persons sentenced to death prior to or after the operative date of this subdivision shall have the opportunity to elect to have the punishment imposed by lethal gas or lethal injection. This choice shall be made in writing and shall be submitted to the warden pursuant to regulations established by the Department of Corrections *and Rehabilitation*. If a person under sentence of death does

not choose either lethal gas or lethal injection within 10 days after the warden's service upon the inmate of an execution warrant issued following the operative date of this subdivision, the penalty of death shall be imposed by lethal injection.

(c) Where the person sentenced to death is not executed on the date set for execution and a new execution date is subsequently set, the inmate again shall have the opportunity to elect to have punishment imposed by lethal gas or lethal injection, according to the procedures set forth in subdivision (b).

(d) Notwithstanding subdivision (b), if either manner of execution described in subdivision (a) is held invalid, the punishment of death shall be imposed by the alternative means specified in subdivision (a).

(e) The Department of Corrections and Rehabilitation, or any successor agency with the duty to execute judgments of death, shall maintain at all times the ability to execute such judgments.

SEC. 11. Section 3604.1 is added to the Penal Code, to read:

3604.1. (a) The Administrative Procedure Act shall not apply to standards, procedures, or regulations promulgated pursuant to Section 3604. The department shall make the standards adopted under subdivision (a) of that section available to the public and to inmates sentenced to death. The department shall promptly notify the Attorney General, the State Public Defender, and counsel for any inmate for whom an execution date has been set or for whom a motion to set an execution date is pending of any adoption or amendment of the standards. Noncompliance with this subdivision is not a ground for stay of an execution or an injunction against carrying out an execution unless the noncompliance has actually prejudiced the inmate's ability to challenge the standard, and in that event the stay shall be limited to a maximum of 10 days.

(b) Notwithstanding subdivision (a) of Section 3604, an execution by lethal injection may be carried out by means of an injection other than intravenous if the warden determines that the condition of the inmate makes intravenous injection impractical.

(c) The court which rendered the judgment of death has exclusive jurisdiction to hear any claim by the condemned inmate that the method of execution is unconstitutional or otherwise invalid. Such a claim shall be dismissed if the court finds its presentation was delayed without good cause. If the method is found invalid, the court shall order the use of a valid method of execution. If the use of a method of execution is enjoined by a federal court, the Department of Corrections and Rehabilitation shall adopt, within 90 days, a method that conforms to federal requirements as found by that court. If the department fails to perform any duty needed to enable it to execute the judgment, the court which rendered the judgment of death shall order it to perform that duty on its own motion, on motion of the District Attorney or Attorney General, or on motion of any victim of the crime as defined in subdivision (e) of Section 28 of Article I of the California Constitution.

SEC. 12. Section 3604.3 is added to the Penal Code, to read:

3604.3. (a) A physician may attend an execution for the purpose of pronouncing death and may provide advice to the department for the purpose of developing an execution protocol to minimize the risk of pain to the inmate.

(b) The purchase of drugs, medical supplies or medical equipment necessary to carry out an execution shall not be subject to the provisions of Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code, and any pharmacist, or supplier, compounder, or manufacturer of pharmaceuticals is authorized to dispense drugs and supplies to the secretary or the secretary's designee, without prescription, for carrying out the provisions of this chapter.

(c) No licensing board, department, commission, or accreditation agency that oversees or regulates the practice of health care or certifies or licenses health care professionals may deny or revoke a license or certification, censure, reprimand, suspend, or take any other disciplinary action against any licensed health care professional for any action authorized by this section.

SEC. 13. Section 68660.5 is added to the Government Code, to read:

68660.5. The purposes of this chapter are to qualify the State of California for the handling of federal habeas corpus petitions under Chapter 154 of Title 28 of the United States Code, to expedite the completion of state habeas corpus proceedings in capital cases, and to provide quality representation in state habeas corpus for inmates sentenced to death. This chapter shall be construed and administered consistently with those purposes.

SEC. 14. Section 68661 of the Government Code is amended to read:

68661. There is hereby created in the judicial branch of state government the California Habeas Corpus Resource Center, which shall have all of the following general powers and duties:

(a) To employ up to 34 attorneys who may be appointed ~~by the Supreme Court~~ *pursuant to Section 68662* to represent any person convicted and sentenced to death in this state who is without counsel, and who is determined by a court of competent jurisdiction to be indigent, for the purpose of instituting and prosecuting ~~postconviction actions~~ *habeas corpus petitions* in the state and federal courts, challenging the legality of the judgment or sentence imposed against that person, *subject to the limitations in Section 68661.1,* and preparing petitions for executive clemency. ~~An~~ *Any such* appointment may be concurrent with the appointment of the State Public Defender or other counsel for purposes of direct appeal under Section 11 of Article VI of the California Constitution.

(b) To seek reimbursement for representation and expenses pursuant to Section 3006A of Title 18 of the United States Code when providing representation to indigent persons in the federal courts and process those payments via the Federal Trust Fund.

(c) To work with the ~~Supreme Court~~ *courts* in recruiting members of the private bar to accept death penalty habeas corpus case appointments.

(d) To ~~establish and periodically update~~ *recommend attorneys to the Supreme Court for inclusion in* a roster of attorneys qualified as counsel in ~~postconviction~~ *habeas corpus* proceedings in capital cases, *provided that the final determination of whether to include an attorney in the roster shall be made by the Supreme Court and not delegated to the center.*

(e) To establish and periodically update a roster of experienced investigators and experts who are qualified to

assist counsel in ~~postconviction~~ *habeas corpus* proceedings in capital cases.

(f) To employ investigators and experts as staff to provide services to appointed counsel upon request of counsel, provided that when the provision of those services is to private counsel ~~under appointment by the Supreme Court~~, those services shall be pursuant to contract between appointed counsel and the center.

(g) To provide legal or other advice ~~or, to the extent not otherwise available, any other assistance~~ to appointed counsel in ~~postconviction~~ *habeas corpus* proceedings as is appropriate when not prohibited by law.

(h) To develop a brief bank of pleadings and related materials on significant, recurring issues that arise in ~~postconviction~~ *habeas corpus* proceedings in capital cases and to make those briefs available to appointed counsel.

(i) To evaluate cases and recommend assignment by the court of appropriate attorneys.

(j) To provide assistance and case progress monitoring as needed.

(k) To timely review case billings and recommend compensation of members of the private bar to the court.

(*l*) The center shall report annually to *the people,* the Legislature, the Governor, and the Supreme Court on the status of the appointment of counsel for indigent persons in ~~postconviction~~ *habeas corpus* capital cases, and on the operations of the center. ~~On or before January 1, 2000, the Legislative Analyst's Office shall evaluate the available reports.~~ *The report shall list all cases in which the center is providing representation. For each case that has been pending more than one year in any court, the report shall state the reason for the delay and the actions the center is taking to bring the case to completion.*

SEC. 15. Section 68661.1 is added to the Government Code, to read:

68661.1. (a) The center may represent a person sentenced to death on a federal habeas corpus petition if and only if (1) the center was appointed to represent that person on state habeas corpus, (2) the center is appointed for that purpose by the federal court, and (3) the executive director determines that compensation from the federal court will fully cover the cost of representation. Neither the center nor any other person or entity receiving state funds shall spend state funds to attack in federal court any judgment of a California court in a capital case, other than review in the Supreme Court pursuant to Section 1257 of Title 28 of the United States Code.

(b) The center is not authorized to represent any person in any action other than habeas corpus which constitutes a collateral attack on the judgment or seeks to delay or prevent its execution. The center shall not engage in any other litigation or expend funds in any form of advocacy other than as expressly authorized by this section or Section 68661.

SEC. 16. Section 68662 of the Government Code is amended to read:

68662. The ~~Supreme Court~~ *superior court that imposed the sentence* shall offer to appoint counsel to represent ~~all~~ *a* state ~~prisoners~~ *prisoner* subject to a capital sentence for purposes of state postconviction proceedings, and shall enter an order containing one of the following:

(a) The appointment of one or more counsel to represent the prisoner in ~~postconviction state~~ proceedings *pursuant to Section 1509 of the Penal Code* upon a finding that the person is indigent and has accepted the offer to appoint counsel or is unable to competently decide whether to accept or reject that offer.

(b) A finding, after a hearing if necessary, that the prisoner rejected the offer to appoint counsel and made that decision with full understanding of the legal consequences of the decision.

(c) The denial to appoint counsel upon a finding that the person is not indigent.

SEC. 17. Section 68664 of the Government Code is amended to read:

68664. (a) The center shall be managed by an executive director who shall be responsible for the day-to-day operations of the center.

(b) The executive director shall be chosen by ~~a five-member board of directors and confirmed by the Senate. Each Appellate Project shall appoint one board member, all of whom shall be attorneys. However, no attorney who is employed as a judge, prosecutor, or in a law enforcement capacity shall be eligible to serve on the board~~ *the Supreme Court*. The executive director shall serve at the will of the ~~board~~ *Supreme Court*.

(c) ~~Each member of the board shall be appointed to serve a four-year term, and vacancies shall be filled in the same manner as the original appointment. Members of the board shall receive no compensation, but shall be reimbursed for all reasonable and necessary expenses incidental to their duties. The first members of the board shall be appointed no later than February 1, 1998.~~ *The executive director shall ensure that all matters in which the center provides representation are completed as expeditiously as possible consistent with effective representation.*

(d) The executive director shall meet the appointment qualifications of the State Public Defender as specified in Section 15400.

(e) The executive director shall receive the salary that shall be specified for the ~~executive director~~ *State Public Defender* in Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2. *All other attorneys employed by the center shall be compensated at the same level as comparable positions in the Office of the State Public Defender.*

SEC. 18. Section 68665 of the Government Code is amended to read:

68665. *(a)* The Judicial Council and the Supreme Court shall adopt, by rule of court, binding and mandatory competency standards for the appointment of counsel in death penalty direct appeals and habeas corpus proceedings*, and they shall reevaluate the standards as needed to ensure that they meet the criteria in subdivision (b)*.

(b) In establishing and reevaluating the standards, the Judicial Council and the Supreme Court shall consider the qualifications needed to achieve competent representation, the need to avoid unduly restricting the available pool of attorneys so as to provide timely appointment, and the standards needed to qualify for Chapter 154 of Title 28 of the United States Code. Experience requirements shall not be limited to defense experience.

SEC. 19. Effective Date. Except as more specifically provided in this act, all sections of this act take effect

immediately upon enactment and apply to all proceedings conducted on or after the effective date.

SEC. 20. Amendments. The statutory 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, three-fourths of the membership of each house concurring, or by a statute that becomes effective only when approved by the voters.

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SEC. 21. Severability/Conflicting Measures/Standing.

If any provision of this act, or any part of any provision, or its application to any person or circumstance is for any reason held to be invalid or unconstitutional, the remaining provisions and applications which can be given effect without the invalid or unconstitutional provision or application shall not be affected, but shall remain in full force and effect, and to this end the provisions of this act are severable.

This measure is intended to be comprehensive. It is the intent of the people that in the event this measure or measures relating to the subject of capital punishment 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 all provisions of the other measure or measures shall be null and void.

The people of the State of California declare that the proponent of this act has a direct and personal stake in defending this act and grant formal authority to the proponent to defend this act in any legal proceeding, either by intervening in such legal proceeding, or by defending the act on behalf of the people and the state in the event that the state declines to defend the act or declines to appeal an adverse judgment against the act. In the event that the proponent is defending this act in a legal proceeding because the state has declined to defend it or to appeal an adverse judgment against it, the proponent shall: act as an agent of the people and the state; be subject to all ethical, legal, and fiduciary duties applicable to such parties in such legal proceedings; take and be subject to the oath of office prescribed by Section 3 of Article XX of the California Constitution for the limited purpose of acting on behalf of the people and the state in such legal proceeding; and be entitled to recover reasonable legal fees and related costs from the state.

PROPOSITION 67

This law proposed by Senate Bill 270 of the 2013–2014 Regular Session (Chapter 850, Statutes of 2014) is submitted to the people as a referendum in accordance with the provisions of Section 9 of Article II of the California Constitution.

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

PROPOSED LAW

SECTION 1. Chapter 5.3 (commencing with Section 42280) is added to Part 3 of Division 30 of the Public Resources Code, to read:

CHAPTER 5.3. SINGLE-USE CARRYOUT BAGS

Article 1. Definitions

42280. (a) "Department" means the Department of Resources Recycling and Recovery.

(b) "Postconsumer recycled material" means a material that would otherwise be destined for solid waste disposal, having completed its intended end use and product life cycle. Postconsumer recycled material does not include materials and byproducts generated from, and commonly reused within, an original manufacturing and fabrication process.

(c) "Recycled paper bag" means a paper carryout bag provided by a store to a customer at the point of sale that meets all of the following requirements:

(1) (A) Except as provided in subparagraph (B), contains a minimum of 40 percent postconsumer recycled materials.

(B) An eight pound or smaller recycled paper bag shall contain a minimum of 20 percent postconsumer recycled material.

(2) Is accepted for recycling in curbside programs in a majority of households that have access to curbside recycling programs in the state.

(3) Has printed on the bag the name of the manufacturer, the country where the bag was manufactured, and the minimum percentage of postconsumer content.

(d) "Reusable grocery bag" means a bag that is provided by a store to a customer at the point of sale that meets the requirements of Section 42281.

(e) (1) "Reusable grocery bag producer" means a person or entity that does any of the following:

(A) Manufactures reusable grocery bags for sale or distribution to a store.

(B) Imports reusable grocery bags into this state, for sale or distribution to a store.

(C) Sells or distributes reusable bags to a store.

(2) "Reusable grocery bag producer" does not include a store, with regard to a reusable grocery bag for which there is a manufacturer or importer, as specified in subparagraph (A) or (B) of paragraph (1).

(f) (1) "Single-use carryout bag" means a bag made of plastic, paper, or other material that is provided by a store to a customer at the point of sale and that is not a recycled paper bag or a reusable grocery bag that meets the requirements of Section 42281.

(2) A single-use carryout bag does not include either of the following:

(A) A bag provided by a pharmacy pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code to a customer purchasing a prescription medication.

(B) A nonhandled bag used to protect a purchased item from damaging or contaminating other purchased items when placed in a recycled paper bag, a reusable grocery bag, or a compostable plastic bag.

(C) A bag provided to contain an unwrapped food item.

(D) A nonhandled bag that is designed to be placed over articles of clothing on a hanger.

(g) "Store" means a retail establishment that meets any of the following requirements:

(1) A full-line, self-service retail store with gross annual sales of two million dollars ($2,000,000) or more that sells a line of dry groceries, canned goods, or nonfood items, and some perishable items.

(2) Has at least 10,000 square feet of retail space that generates sales or use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law (Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code) and has a pharmacy licensed pursuant to Chapter 9 (commencing with Section 4000) of Division 2 of the Business and Professions Code.

(3) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of a limited line of goods, generally including milk, bread, soda, and snack foods, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(4) Is a convenience food store, foodmart, or other entity that is engaged in the retail sale of goods intended to be consumed off the premises, and that holds a Type 20 or Type 21 license issued by the Department of Alcoholic Beverage Control.

(5) Is not otherwise subject to paragraph (1), (2), (3), or (4), if the retail establishment voluntarily agrees to comply with the requirements imposed upon a store pursuant to this chapter, irrevocably notifies the department of its intent to comply with the requirements imposed upon a store pursuant to this chapter, and complies with the requirements established pursuant to Section 42284.

Article 2. Reusable Grocery Bags

42281. (a) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may sell or distribute a reusable grocery bag to a customer at the point of sale only if the reusable bag is made by a producer certified pursuant to this article to meet all of the following requirements:

(1) Has a handle and is designed for at least 125 uses, as provided in this article.

(2) Has a volume capacity of at least 15 liters.

(3) Is machine washable or made from a material that can be cleaned and disinfected.

(4) Has printed on the bag, or on a tag attached to the bag that is not intended to be removed, and in a manner visible to the consumer, all of the following information:

(A) The name of the manufacturer.

(B) The country where the bag was manufactured.

(C) A statement that the bag is a reusable bag and designed for at least 125 uses.

(D) If the bag is eligible for recycling in the state, instructions to return the bag to the store for recycling or to another appropriate recycling location. If recyclable in the state, the bag shall include the chasing arrows recycling symbol or the term "recyclable," consistent with the Federal Trade Commission guidelines use of that term, as updated.

(5) Does not contain lead, cadmium, or any other toxic material that may pose a threat to public health. A reusable bag manufacturer may demonstrate compliance with this requirement by obtaining a no objection letter from the federal Food and Drug Administration. This requirement shall not affect any authority of the Department of Toxic Substances Control pursuant to Article 14 (commencing with Section 25251) of Chapter 6.5 of Division 20 of the Health and Safety Code and, notwithstanding subdivision (c) of Section 25257.1 of the Health and Safety Code, the reusable grocery bag shall not be considered as a product category already regulated or subject to regulation.

(6) Complies with Section 260.12 of Part 260 of Title 16 of the Code of Federal Regulations related to recyclable claims if the reusable grocery bag producer makes a claim that the reusable grocery bag is recyclable.

(b) (1) In addition to the requirements in subdivision (a), a reusable grocery bag made from plastic film shall meet all of the following requirements:

(A) On and after January 1, 2016, it shall be made from a minimum of 20 percent postconsumer recycled material.

(B) On and after January 1, 2020, it shall be made from a minimum of 40 percent postconsumer recycled material.

(C) It shall be recyclable in this state, and accepted for return at stores subject to the at-store recycling program (Chapter 5.1 (commencing with Section 42250)) for recycling.

(D) It shall have, in addition to the information required to be printed on the bag or on a tag, pursuant to paragraph (4) of subdivision (a), a statement that the bag is made partly or wholly from postconsumer recycled material and stating the postconsumer recycled material content percentage, as applicable.

(E) It shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses and be at least 2.25 mils thick, measured according to the American Society of Testing and Materials (ASTM) Standard D6988-13.

(2) A reusable grocery bag made from plastic film that meets the specifications of the American Society of Testing and Materials (ASTM) International Standard Specification for Compostable Plastics D6400, as updated, is not required to meet the requirements of subparagraph (A) or (B) of paragraph (1), but shall be labeled in accordance with the applicable state law regarding compostable plastics.

(c) In addition to the requirements of subdivision (a), a reusable grocery bag that is not made of plastic film and that is made from any other natural or synthetic fabric, including, but not limited to, woven or nonwoven nylon, polypropylene, polyethylene-terephthalate, or Tyvek, shall satisfy all of the following:

(1) It shall be sewn.

(2) It shall be capable of carrying 22 pounds over a distance of 175 feet for a minimum of 125 uses.

(3) It shall have a minimum fabric weight of at least 80 grams per square meter.

(d) On and after July 1, 2016, a store as defined in paragraph (3), (4), or (5) of subdivision (g) of Section 42280, shall comply with the requirements of this section.

42281.5. On and after July 1, 2015, a producer of reusable grocery bags made from plastic film shall not sell or distribute a reusable grocery bag in this state unless the producer is certified by a third-party certification entity pursuant to Section 42282. A producer shall provide proof of certification to the department demonstrating that the reusable grocery bags produced by the producer comply with the provisions of this article. The proof of certification shall include all of the following:

(a) Names, locations, and contact information of all sources of postconsumer recycled material and suppliers of postconsumer recycled material.

(b) Quantity and dates of postconsumer recycled material purchases by the reusable grocery bag producer.

(c) How the postconsumer recycled material is obtained.

(d) Information demonstrating that the postconsumer recycled material is cleaned using appropriate washing equipment.

42282. (a) Commencing on or before July 1, 2015, the department shall accept from a reusable grocery bag producer proof of certification conducted by a third-party certification entity, submitted under penalty of perjury, for each type of reusable grocery bag that is manufactured, imported, sold, or distributed in the state and provided to a store for sale or distribution, at the point of sale, that meets all the applicable requirements of this article. The proof of certification shall be accompanied by a certification fee, established pursuant to Section 42282.1.

(b) A reusable grocery bag producer shall resubmit to the department proof of certification as described in subdivision (a) on a biennial basis. A reusable grocery bag producer shall provide the department with an updated proof of certification conducted by a third-party certification entity if any modification that is not solely aesthetic is made to a previously certified reusable bag. Failure to comply with this subdivision shall result in removal of the relevant information posted on the department's Internet Web site pursuant to paragraphs (1) and (2) of subdivision (e) for each reusable bag that lacks an updated proof of certification conducted by a third-party certification entity.

(c) A third-party certification entity shall be an independent, accredited (ISO/IEC 17025) laboratory. A third-party certification entity shall certify that the producer's reusable grocery bags meet the requirements of Section 44281.

(d) The department shall provide a system to receive proofs of certification online.

(e) On and after July 1, 2015, the department shall publish a list on its Internet Web site that includes all of the following:

(1) The name, location, and appropriate contact information of certified reusable grocery bag producers.

(2) The reusable grocery bags of producers that have provided the required certification.

(f) A reusable grocery bag producer shall submit applicable certified test results to the department confirming that the reusable grocery bag meets the requirements of this article for each type of reusable grocery bag that is manufactured, imported, sold, or distributed in the state and provided to a store for sale or distribution.

(1) A person may object to the certification of a reusable grocery bag producer pursuant to this section by filing an action for review of that certification in the superior court of a county that has jurisdiction over the reusable grocery bag producer. The court shall determine if the reusable grocery bag producer is in compliance with the requirements of this article.

(2) A reusable grocery bag producer whose certification is being objected to pursuant to paragraph (1) shall be deemed in compliance with this article pending a determination by the court.

(3) Based on its determination, the court shall direct the department to remove the reusable grocery bag producer from, or retain the reusable grocery bag producer on, its list published pursuant to subdivision (e).

(4) If the court directs the department to remove a reusable grocery bag producer from its published list, the reusable grocery bag producer shall remain off of the published list for a period of one year from the date of the court's determination.

42282.1. (a) A reusable grocery bag producer shall submit the fee established pursuant to subdivision (b) to the department when providing proof of certification or recertification pursuant to Sections 42281.5 and 42282.

(b) The department shall establish an administrative certification fee schedule that will generate fee revenues sufficient to cover, but not exceed, the department's reasonable costs to implement this article. The department shall deposit all moneys submitted pursuant to this section into the Reusable Grocery Bag Fund, which is hereby established in the State Treasury. Notwithstanding Section 11340 of the Government Code, moneys in the fund are continuously appropriated, without regard to fiscal year, to the department for the purpose of implementing this article.

Article 3. Single-Use Carryout Bags

42283. (a) Except as provided in subdivision (e), on and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not provide a single-use carryout bag to a customer at the point of sale.

(b) (1) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not sell or distribute a reusable grocery bag at the point of sale except as provided in this subdivision.

(2) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may make available for purchase at the point of sale a reusable grocery bag that meets the requirements of Section 42281.

(3) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, that makes reusable grocery bags available for purchase pursuant to paragraph (2) shall not sell the reusable grocery bag for less than ten cents ($0.10) in order to ensure that the cost of providing a reusable grocery bag is not subsidized by a customer who does not require that bag.

(c) (1) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not sell or distribute a recycled paper bag except as provided in this subdivision.

(2) A store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may make available for purchase a recycled paper bag. On and after July 1, 2015, the store shall not sell a recycled paper bag for less than ten cents ($0.10) in order to ensure that the cost of providing a recycled paper bag is not subsidized by a consumer who does not require that bag.

(d) Notwithstanding any other law, on and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, that makes reusable grocery bags or recycled paper bags available for purchase at the point of sale shall provide a reusable grocery bag or a recycled paper bag at no cost at the point of sale to a customer using a payment card or voucher issued by the

California Special Supplemental Food Program for Women, Infants, and Children pursuant to Article 2 (commencing with Section 123275) of Chapter 1 of Part 2 of Division 106 of the Health and Safety Code or an electronic benefit transfer card issued pursuant to Section 10072 of the Welfare and Institutions Code.

(e) On and after July 1, 2015, a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, may distribute a compostable bag at the point of sale, if the compostable bag is provided to the consumer at the cost specified pursuant to paragraph (2), the compostable bag, at a minimum, meets the American Society for Testing and Materials (ASTM) International Standard Specification for Compostable Plastics D6400, as updated, and in the jurisdiction where the compostable bag is sold and in the jurisdiction where the store is located, both of the following requirements are met:

(1) A majority of the residential households in the jurisdiction have access to curbside collection of foodwaste for composting.

(2) The governing authority for the jurisdiction has voted to allow stores in the jurisdiction to sell to consumers at the point of sale a compostable bag at a cost not less than the actual cost of the bag, which the Legislature hereby finds to be not less than ten cents ($0.10) per bag.

(f) A store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280, shall not require a customer to use, purchase, or accept a single-use carryout bag, recycled paper bag, compostable bag, or reusable grocery bag as a condition of sale of any product.

42283.5. On and after July 1, 2016, a store, as defined in paragraph (3), (4), or (5) of subdivision (g) of Section 42280, shall comply with the same requirements of Section 42283 that are imposed upon a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280.

42283.6. (a) The operator of a store, as defined in paragraph (1) or (2) of subdivision (g) of Section 42280 that makes recycled paper or reusable grocery bags available at the point of sale, shall be subject to the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

(b) A store that voluntarily agrees to comply with the provisions of this article pursuant to subdivision (g) of Section 42280, shall also comply with the provisions of the at-store recycling program (Chapter 5.1 (commencing with Section 42250)).

42283.7. All moneys collected pursuant to this article shall be retained by the store and may be used only for the following purposes:

(a) Costs associated with complying with the requirements of this article.

(b) Actual costs of providing recycled paper bags or reusable grocery bags.

(c) Costs associated with a store's educational materials or educational campaign encouraging the use of reusable grocery bags.

42284. (a) A retail establishment not specifically required to comply with the requirements of this chapter is encouraged to reduce its distribution of single-use plastic carryout bags.

(b) Pursuant to the provisions of subdivision (g) of Section 42280, any retail establishment that is not a "store," that provides the department with the irrevocable written notice as specified in subdivision (c), shall be regulated as a "store" for the purposes of this chapter.

(c) The irrevocable written notice shall be dated and signed by an authorized representative of the retail establishment, and shall include the name and physical address of all retail locations covered by the notice. The department shall acknowledge receipt of the notice in writing and shall specify the date the retail establishment will be regulated as a "store," which shall not be less than 30 days after the date of the department's acknowledgment. The department shall post on its Internet Web site, organized by county, the name and physical location or locations of each retail establishment that has elected to be regulated as a "store."

Article 4. Enforcement

42285. (a) A city, a county, a city and county, or the state may impose civil liability on a person or entity that knowingly violated this chapter, or reasonably should have known that it violated this chapter, in the amount of one thousand dollars ($1,000) per day for the first violation of this chapter, two thousand dollars ($2,000) per day for the second violation, and five thousand dollars ($5,000) per day for the third and subsequent violations.

(b) Any civil penalties collected pursuant to subdivision (a) shall be paid to the office of the city attorney, city prosecutor, district attorney, or Attorney General, whichever office brought the action. The penalties collected pursuant to this section by the Attorney General may be expended by the Attorney General, upon appropriation by the Legislature, to enforce this chapter.

Article 5. Preemption

42287. (a) Except as provided in subdivision (c), this chapter is a matter of statewide interest and concern and is applicable uniformly throughout the state. Accordingly, this chapter occupies the whole field of regulation of reusable grocery bags, single-use carryout bags, and recycled paper bags, as defined in this chapter, provided by a store, as defined in this chapter.

(b) On and after January 1, 2015, a city, county, or other local public agency shall not enforce, or otherwise implement, an ordinance, resolution, regulation, or rule, or any amendment thereto, adopted on or after September 1, 2014, relating to reusable grocery bags, single-use carryout bags, or recycled paper bags, against a store, as defined in this chapter, unless expressly authorized by this chapter.

(c) (1) A city, county, or other local public agency that has adopted, before September 1, 2014, an ordinance, resolution, regulation, or rule relating to reusable grocery bags, single-use carryout bags, or recycled paper bags may continue to enforce and implement that ordinance, resolution, regulation, or rule that was in effect before that date. Any amendments to that ordinance, resolution, regulation, or rule on or after January 1, 2015, shall be subject to subdivision (b), except the city, county, or other local public agency may adopt or amend an ordinance, resolution, regulation, or rule to increase the amount that a store shall charge with regard to a recycled paper bag, compostable bag, or reusable grocery bag to no less than the amount specified in Section 42283.

(2) A city, county, or other local public agency not covered by paragraph (1) that, before September 1, 2014, has passed a first reading of an ordinance or resolution expressing the intent to restrict single-use carryout bags and, before January 1, 2015, adopts an ordinance to

restrict single-use carryout bags, may continue to enforce and implement the ordinance that was in effect before January 1, 2015.

Article 6. Financial Provisions

42288.

[Subdivision (a) of this section is not subject to referendum]

(b) The department may expend, if there are applicants eligible for funding from the Recycling Market Development Revolving Loan Subaccount, the funds appropriated pursuant to this section to provide loans for both of the following:

(1) Development and conversion of machinery and facilities for the manufacture of single-use plastic bags into machinery and facilities for the manufacturer of durable reusable grocery bags that, at a minimum, meet the requirements of Section 42281.

(2) Development of equipment for the manufacture of reusable grocery bags, that, at a minimum, meet the requirements of Section 42281.

(c) A recipient of a loan authorized by this section shall agree, as a condition of receiving the loan, to retain and retrain existing employees for the manufacturing of reusable grocery bags that, at a minimum, meet the requirements of Section 42281.

(d) Any moneys appropriated pursuant to this section not expended by the end of the 2015–16 fiscal year shall revert to the Recycling Market Development Revolving Loan Subaccount for expenditure pursuant to Article 3 (commencing with Section 42010) of Chapter 1.

(e) Applicants for funding under this section may also apply for funding or benefits from other economic development programs for which they may be eligible, including, but not limited to, both of the following:

(1) An income tax credit, as described in Sections 17059.2 and 23689 of the Revenue and Taxation Code.

(2) A tax exemption pursuant to Section 6377.1 of the Revenue and Taxation Code.

SEC. 2. No later than March 1, 2018, the department, as a part of its reporting requirement pursuant to Section 40507 of the Public Resources Code, shall provide a status report on the implementation of Chapter 5.3 (commencing with Section 42280) of Part 3 of Division 30 of the Public Resources Code.

DATES TO REMEMBER!

REMEMBER TO VOTE!

Polls are open from 7:00 a.m. to 8:00 p.m. on Election Day!

OCTOBER

S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

October 10, 2016
First day to vote-by-mail.

October 24, 2016
Last day to register to vote.

NOVEMBER

S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

November 1, 2016
Last day that county elections officials will accept any voter's application for a vote-by-mail ballot.

November 8, 2016
Election Day!

California Secretary of State
Elections Division
1500 11th Street
Sacramento, CA 95814

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OFFICIAL VOTER INFORMATION GUIDE

Tuesday, November 8, 2016
Remember to Vote!
Polls are open from 7:00 a.m. to 8:00 p.m.

October 10
First day to vote-by-mail.

October 24
Last day to register to vote.

November 1
Last day that county elections officials will accept any voter's application for a vote-by-mail ballot.

For additional copies of the Voter Information Guide in any of the following languages, please call:

English: (800) 345-VOTE (8683)
TDD: (800) 833-8683
Español/Spanish: (800) 232-VOTA (8682)
中文**/Chinese:** (800) 339-2857
हिन्दी**/Hindi:** (888) 345-2692
日本語**/Japanese:** (800) 339-2865
ខ្មែរ**/Khmer:** (888) 345-4917
한국어**/Korean:** (866) 575-1558
Tagalog: (800) 339-2957
ภาษาไทย**/Thai:** (855) 345-3933
Việt ngữ**/Vietnamese:** (800) 339-8163

In an effort to reduce election costs, the State Legislature has authorized the State and counties to mail only one guide to addresses where more than one voter with the same surname resides. You may obtain additional copies by contacting your county elections official or by calling (800) 345-VOTE.

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