

**In the Supreme Court of the State of California**

**THE PEOPLE OF THE STATE OF  
CALIFORNIA,**

**Plaintiff and Respondent,**

**v.**

**DARLENE A. VARGAS,**

**Defendant and Appellant.**

Case No. S203744 **SUPREME COURT  
FILED**

**MAR 7 - 2013**

**Frank A. McGuire Clerk**

**Deputy**

Second Appellate District, Division Eight, Case No. B231338  
Los Angeles County Superior Court, Case No. KA085541  
The Honorable Bruce F. Marrs, Judge

**RESPONDENT'S MOTION FOR JUDICIAL NOTICE**

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Respondent respectfully moves this Court, pursuant to Evidence Code sections 452 and 459, and California Rules of Court, rule 8.252, to take judicial notice of the following documents:

1. The record from the California Court of Appeal, case number B215690, consisting of the records and files of appellant's appeal from judgment of conviction in the Los Angeles County Superior Court, case number KA85541;
2. The record from the California Court of Appeal, case number B219896, consisting of the records and files of appellant's habeas corpus proceedings determined in conjunction with the above-referenced appeal in case number B215690;
3. The plea hearing transcript from the Los Angeles County Superior Court, Case No. KA043362 (attached as Exhibit A);
4. The General Election Ballot Pamphlet of November 8, 1994, containing the text of Proposition 184 (attached as Exhibit B);
5. The Assembly Committee on Public Safety's Analysis of Senate Bill Number 60 (1993-1994 Reg. Sess.) as amended July 13, 1992 (attached as Exhibit C);

This motion is based upon the attached memorandum of supporting points and authorities, the attached exhibits, the supporting declaration of counsel, and the record in this matter.

## MEMORANDUM OF POINTS AND AUTHORITIES

### ARGUMENT

#### **JUDICIAL NOTICE IS PROPER AND WILL ASSIST THIS COURT IN ITS DETERMINATION OF THE ISSUES IN THE PRESENT APPEAL**

Evidence Code section 459, subdivision (a), provides that a reviewing court may take judicial notice of any matter specified in Evidence Code section 452. Section 452, subdivisions (c) and (d) provide that judicial notice may be taken of the following matters: “(c) Official acts of the legislative, executive, and judicial departments of . . . any state of the United States,” and “(d) [the] records of (1) any court of this state.”

California Rules of Court, rule 8.520(g), further provides that, in order “[t]o obtain judicial notice by the Supreme Court under Evidence Code section 459, a party must comply with rule 8.252(a).” Rule 8.252(a), in turn, provides as follows:

(1) To obtain judicial notice by a reviewing court under Evidence Code section 459, a party must serve and file a separate motion with a proposed order.

(2) The motion must state:

(A) Why the matter to be noticed is relevant to the appeal;

(B) Whether the matter to be noticed was presented to the trial court and, if so, whether judicial notice was taken by that court; and

(C) If the matter to be noticed is not in the record, the party must serve and file a copy with the motion or explain why it is not practicable to do so.

As this Court has repeatedly made clear, the primary question in deciding whether to take judicial notice is whether the information sought to be noticed is reasonably subject to dispute. Where that information is

not reasonably subject to dispute, judicial notice is entirely proper even over objection of one of the parties. (*See, e.g., People v. Hill* (1998) 17 Cal.4th 800, 847 n. 9; *People v. Wiley* (1995) 9 Cal.4th 580, 594.) . Respondent addresses each of the documents requested to be judicially noticed as follows.

**A. Court Records from California Court of Appeal Case Numbers B215690 and B219896**

The present appeal involves the issue of whether appellant's two prior serious and/or violent ("strike") convictions arose from one criminal act, and if so, whether the trial court was required to dismiss one of the strikes pursuant to a mandatory rule, or alternatively, in the exercise of discretion. Following appellant's judgment of conviction in the superior court, appellant sought two rounds of appellate review and one round of habeas corpus review in the California Court of Appeal. This Court granted review following appellant's second appeal in California Court of Appeal case number B231338. However, the full record regarding appellant's judgment of conviction, which includes the facts of appellant's current offenses are set forth in appellant's first appeal in case number B215690. Additional evidence regarding appellant's prior strike offenses is set forth in the habeas corpus proceedings in case number B219896. The record from these cases is therefore highly relevant to address whether the trial court abused its discretion in denying appellant's motion to dismiss her prior strike convictions.

These records consist of proceedings documented in the trial court. Thus, they were presented in the trial court. Moreover, none of facts sought to be noticed is disputable. Indeed, since these documents are part of the trial court's records, it would be difficult for appellant to make such a contention. Judicial notice is therefore appropriate. (*See, e.g., People v. Hoover* (1987) 186 Cal.App.4th 1074, 1082 n. 1 [reviewing court takes

judicial notice of transcripts of co-appellant's trial]; accord *Estate of Castiglioni* (1995) 40 Cal.App.4th 367, 370 n. 3.)

**B. Plea Hearing Transcript from *People v. Vargas*, Los Angeles County Superior Court Case No. KA043362**

Respondent also requests judicial notice of appellant's plea hearing transcript from Los Angeles County Superior Court case number KA043362 because this document contains additional evidence regarding appellant's prior strike convictions. Specifically, one of the threshold issues raised by appellant is that both of prior strike convictions arose from the same criminal act based on her preliminary hearing transcript from her prior strike case. However, respondent disagrees with this contention based on appellant's plea agreement from that case, pursuant to which she pled guilty to the strike offenses. This agreement is memorialized in the plea hearing transcript. Respondent relies extensively on this transcript in addressing whether this Court must find that appellant's prior strikes arose from separate criminal acts as a matter of law based on the sentences that she received. Specifically, the transcript indicates that appellant acknowledged that the two offenses would constitute two separate strikes, the sentences she received for the two strikes were negotiated as part of her plea agreement, and the sentences could only be imposed if the offenses arose from separate criminal acts. In sum, the plea hearing transcript provides a more comprehensive record of appellant's prior strikes. Therefore, it is relevant to this Court's resolution of this issue on appeal.

The plea hearing transcript, attached as exhibit A., was not before the trial court or the Court of Appeal. Nevertheless, both courts were aware that appellant pled guilty to the prior strikes and that she received concurrent prison terms for the two offenses. In addition, none of the facts sought to be noticed is disputable because the plea hearing transcript memorializes the record regarding the appellant's guilty plea for her prior

strike convictions. Accordingly, judicial notice of this court record is proper. (*See, e.g., County of San Diego v. State* (1997) 15 Cal.4th 68, 83 n.7 [taking judicial notice of records from another case never presented to trial court].)

**C. Text of Proposition 184, and Assembly Committee Analysis of Senate Bill Number 60**

Respondent also seeks judicial notice of the text of Proposition 184, as well as the Assembly Committee on Public Safety's Analysis of Senate Bill Number 60. Both of these documents consist of provisions of legislative history underlying relevant statutes to be interpreted in the present appeal. The text of Proposition 184 contains a statement of the electorate's intention in enacting the Three Strikes Law. And the Assembly Committee on Public Safety's Analysis of Senate Bill Number 60 provides a statement of the reasons for enacting the carjacking statute as a separate crime from robbery.

Respondent relies on these documents in addressing the question of whether appellant's prior strike convictions for the offenses carjacking and robbery arose from the same criminal act, and if so, whether there is a mandatory rule requiring automatic dismissal of prior strikes arising from the same act. With regard to the text of Proposition 184, respondent relies on the electorate's statement of intent to address the question of whether two prior strikes arising from the same act may nevertheless be imposed as separate strikes. Respondent additionally relies on the Assembly Committee on Public Safety's Analysis of Senate Bill Number 60 to address the Legislature's intent when it created the crime of carjacking, in addition to robbery, where the two crimes appear to be closely related.

These documents are attached to this motion as exhibits B and C, and they were not before the trial court or the Court of Appeal. (Rule

8.252(a)(2)(B).) Judicial notice of the legislative history underlying a statute which is to be interpreted by the reviewing court is proper. (Evid. Code, § 452, subd. (c), 459, subd. (a)(2); see *Evans v. City of Berkeley* (2006) 38 Cal.4th 1, 7, fn. 2; *Elsner v. Uveges* (2004) 34 Cal.4th 915, 921, fn. 10; *People v. Ansell* (2001) 25 Cal.4th 868, 881, fn. 20.) Judicial notice is also proper here because these documents will allow this Court to reference the sources respondent uses in support of the arguments made in this case.

### CONCLUSION

For the foregoing reasons, respondent respectfully requests that this Court grant respondent's motion for judicial notice of the documents referenced herein.

Dated: March 6, 2013

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
DANE R. GILLETTE  
Chief Assistant Attorney General  
LANCE E. WINTERS  
Senior Assistant Attorney General  
LARRY M. DANIELS  
Supervising Deputy Attorney General  
NOAH P. HILL  
Deputy Attorney General



KIM AARONS  
Deputy Attorney General  
*Attorneys for Respondent*

## DECLARATION OF KIM AARONS

I, KIM AARONS, hereby declare under penalty of perjury the following:

1. I am a Deputy Attorney General and am a member of the Criminal Division of the California Attorney General's office. I am assigned to the case of *People v. Vargas*, California Supreme Court case number S203744.

2. In the answer brief on the merits, which is being concurrently filed, I have incorporated and referred to all of the documents attached to this request for judicial notice in support of respondent's arguments. Specifically, the answer brief asserts that appellant's prior strike convictions arose from separate criminal acts as a matter of law based on the terms of appellant's plea agreement, but even assuming that her strikes arose from the same act, there is no rule requiring dismissal of one of the prior strikes. And assuming that there is no rule requiring dismissal of strikes arising from the same act, the trial court did not abuse its discretion in denying appellant's motion to dismiss her prior strikes.

3. I have obtained what I believe are true and correct copies of the following, and caused them to be attached to this application: (1) the plea hearing transcript from the matter of *People v. Vargas*, Los Angeles County Superior Court Case No. KA043362 (Exh. A); (2) the General Election Ballot Pamphlet of November 8, 1994, containing the text of Proposition



184 (Exh. B); and (3) the Assembly Committee on Public Safety's Analysis of Senate Bill No. 60 (1993-1994 Reg. Sess.) as amended July 13, 1992 (Exh. C).

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct.

Executed this 6th day of March 2013, at Los Angeles, California.

  
KIM AARONS

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT NO. EA "E" HON. DAVID S. MILTON, JUDGE

THE PEOPLE OF THE STATE OF CALIFORNIA,  
PLAINTIFF,  
VS.  
DARLENE A. VARGAS,  
DEFENDANT.

NO. KAC43362  
PLEA AND  
STATE PRISON

POMONA, CALIFORNIA, THURSDAY, APRIL 15, 1999

10:20 A.M.

APPEARANCES:

UPON THE ABOVE DATE, THE DEFENDANT BEING  
PRESENT IN COURT AND REPRESENTED BY COUNSEL, FRED  
DELA PENA, ESQUIRE; THE PEOPLE BEING REPRESENTED BY  
RICHARD CEBALLOS, DEPUTY DISTRICT ATTORNEY OF LOS  
ANGELES COUNTY, THE FOLLOWING PROCEEDINGS WERE HELD:

(SHARON BAKER FOX, OFFICIAL REPORTER, CSR #4332)

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THE COURT: DARLENE ANGELA VARGAS.

MATTER HERE FOR DISPOSITION.

THE DEFENDANT HAS A PRIOR ROBBERY?

MR. CEBALLOS: NO. IT -- WE CHECKED IT OUT. IT IS A 496.

THE COURT: ALL RIGHT.

MATTER HERE FOR DISPOSITION.

YOU ARE DARLENE ANGELA VARGAS?

THE DEFENDANT: YES, SIR.

THE COURT: ALL RIGHT.

APPEARANCES, PLEASE.

MR. DELA PENA: GOOD MORNING, YOUR HONOR.

FRED DELA PENA, MAKING A GENERAL APPEARANCE ON BEHALF OF MISS VARGAS.

MR. CEBALLOS: RICHARD CEBALLOS FOR THE PEOPLE.

THE COURT: ALL RIGHT.

ALL RIGHT, YOU MAY PROCEED, MR. CEBALLOS.

MR. CEBALLOS: DARLENE ANGELA VARGAS, YOU ARE BEFORE THE COURT ON INFORMATION KAS93363.

COUNT 1 CHARGES YOU WITH VIOLATION OF PENAL CODE SECTION 215(A), A FELONY, THE CRIME OF CARJACKING.

COUNT 2 IS A VIOLATION OF PENAL CODE SECTION 213, A FELONY, SECOND-DEGREE ROBBERY.

AND, FINALLY, COUNT 3 IS A VIOLATION OF VEHICLE CODE SECTION 10951, A FELONY CHARGE OF UNLAWFUL DRIVING OR TAKING OF A VEHICLE.

1 MISS VARGAS, YOUR ATTORNEY AND I HAVE  
2 HAD A DISCUSSION ABOUT THIS CASE, AND IT IS NOW MY  
3 UNDERSTANDING THAT YOU ARE GOING TO BE PLEADING GUILTY  
4 TO COUNT 1 AND 2 OF THIS INFORMATION, THE CARJACKING  
5 AND THE ROBBERY.

6 YOU WILL BE SENTENCED TO STATE PRISON  
7 FOR THE MID TERM BASE OF THREE YEARS ON THE ROBBERY AND  
8 THE LOW TERM BASE OF THREE YEARS ON THE CARJACKING TO  
9 RUN CONCURRENT.

10 MISS VARGAS, IS THIS YOUR UNDERSTANDING  
11 OF THE AGREEMENT, AND IS THIS WHAT YOU WISH TO DO  
12 TODAY?

13 THE DEFENDANT: YES, YES, SIR.

14 MR. CEBALLOS: HAVE THERE BEEN ANY OTHER  
15 PROMISES MADE TO YOU ABOUT WHAT'S GOING TO HAPPEN IN  
16 THIS CASE?

17 THE DEFENDANT: NO, SIR.

18 MR. CEBALLOS: HAVE YOU HAD SUFFICIENT TIME TO  
19 DISCUSS THIS MATTER WITH YOUR ATTORNEY, INCLUDING  
20 DISCUSSING THE NATURE OF THE CHARGES AND THE POSSIBLE  
21 DEFENSES IN YOUR CASE?

22 THE DEFENDANT: (NO AUDIBLE RESPONSE.)

23 MR. CEBALLOS: YOU HAVE TO ANSWER OUT LOUD.

24 THE DEFENDANT: YES, SIR.

25 MR. CEBALLOS: HAS ANYONE THREATENED YOU OR  
26 ANYONE NEAR AND DEAR TO YOU IN ORDER TO GET YOU TO  
27 PLEAD GUILTY TODAY?

28 THE DEFENDANT: NO, SIR.

1 MR. CEBALLOS: THERE IS FILED WITH THE COURT A  
2 TWO-PAGE DOCUMENT ENTITLED GUILTY PLEA IN SUPERIOR  
3 COURT. NOW, ON THOSE TWO PAGES, NEXT TO SOME  
4 PARAGRAPHS ARE SOME INITIALS, LOOKS LIKE DV -- DAV --  
5 AND SECOND PAGE, LINE 19, THERE IS A SIGNATURE, APPEARS  
6 TO BE DARLENE VARGAS.

7 AND, MISS VARGAS, FIRST OF ALL, DID YOU  
8 PLACE YOUR INITIALS ON THOSE TWO PAGES AND SIGN YOUR  
9 NAME ON THE SECOND PAGE, LINE 19?

10 THE DEFENDANT: YES, SIR.

11 MR. CEBALLOS: AND DID YOU GO OVER THIS FORM  
12 WITH YOUR ATTORNEY?

13 THE DEFENDANT: YES, SIR.

14 MR. CEBALLOS: DID HE EXPLAIN EVERYTHING THAT  
15 WAS CONTAINED ON THE FORM?

16 THE DEFENDANT: YES, SIR.

17 MR. CEBALLOS: DO YOU UNDERSTAND THAT YOU DO HAVE A  
18 RIGHT TO HAVE A TRIAL BY JURY. AT THAT TRIAL, YOU  
19 WOULD HAVE A RIGHT THROUGH YOUR ATTORNEY TO CONFRONT  
20 AND CROSS-EXAMINE ALL THE WITNESSES THAT ARE CALLED  
21 AGAINST YOU.

22 NOW, DO YOU HAVE A RIGHT TO REMAIN  
23 SILENT. THAT'S KNOWN AS THE RIGHT AGAINST  
24 SELF-INCRIMINATION. HOWEVER, YOU DO HAVE A RIGHT TO  
25 TESTIFY, TO PRESENT A DEFENSE AND TO SUBPOENA WITNESSES  
26 AT NO EXPENSE TO YOURSELF.

27 DO YOU UNDERSTAND EACH AND EVERY ONE OF  
28 THESE RIGHTS?

1 THE DEFENDANT: YES, SIR.

2 MR. CEBALLOS: DO YOU NOW WAIVE AND GIVE UP EACH  
3 AND EVERY ONE OF THESE RIGHTS?

4 THE DEFENDANT: YES, SIR.

5 MR. CEBALLOS: I'M OBLIGATED TO INFORM YOU THAT  
6 IF YOU ARE NOT A CITIZEN OF THIS COUNTRY, YOUR  
7 CONVICTION IN THIS MATTER MAY RESULT IN YOUR  
8 DEPORTATION, YOUR DENIAL OF CITIZENSHIP OR  
9 NATURALIZATION.

10 YOU UNDERSTAND THAT?

11 THE DEFENDANT: YES, SIR.

12 MR. CEBALLOS: YOU ALSO UNDERSTAND THE COURT IS  
13 REQUIRED BY LAW TO IMPOSE A RESTITUTION FINE ON YOU.  
14 THAT MINIMUM FINE WILL BE \$200. THE MAXIMUM IS  
15 \$10,000.

16 YOU UNDERSTAND THAT?

17 THE DEFENDANT: YES, SIR.

18 MR. CEBALLOS: YOU UNDERSTAND THAT AFTER YOU  
19 SERVE A PERIOD OF TIME IN PRISON, YOU WILL BE RELEASED  
20 ON PAROLE FOR A PERIOD OF UP TO THREE YEARS. NOW,  
21 THERE WILL BE TERMS AND CONDITIONS OF PAROLE. IF YOU  
22 VIOLATE ANY OF THOSE TERMS AND CONDITIONS OF PAROLE,  
23 YOU CAN BE SENT BACK TO STATE PRISON FOR THE MAXIMUM,  
24 WHICH IS TEN YEARS.

25 YOU UNDERSTAND THAT?

26 THE DEFENDANT: YES, SIR.

27 MR. CEBALLOS: YOU ALSO UNDERSTAND YOU ARE  
28 PLEADING GUILTY TO TWO STRIKES, THESE ARE TWO SERIOUS

1 FELONIES, WHICH MEANS THAT IF IN THE FUTURE YOU ARE  
2 CONVICTED OF ANY OTHER FELONY OFFENSE, YOUR CONVICTION  
3 WILL RESULT IN A SENTENCE OF 25 YEARS TO LIFE IN  
4 PRISON.

5 YOU UNDERSTAND THAT?

6 THE DEFENDANT: YES, SIR.

7 MR. CEBALLOS: HOW OLD IS SHE?

8 MR. DELA PENA: YOU ARE 19?

9 THE DEFENDANT: 19 YEARS OLD, YES, SIR.

10 MR. CEBALLOS: I'M NOT SURE SHE IS GOING TO GO  
11 IN A YA HOUSING AT HER AGE.

12 THE COURT: WELL, SHE DOES HAVE A PRIOR.

13 I THINK MR. DELA PENA DID A FANTASTIC  
14 JOB GETTING THIS CASE DOWN FROM TEN YEARS TO THREE  
15 YEARS, BUT WITH THE PRIOR THAT SHE HAS -- APPARENTLY,  
16 IT WAS A ROBBERY THAT WAS REDUCED TO A 496?

17 MR. CEBALLOS: YES SHE WENT TO CAMP.

18 MR. DELA PENA: YOUR HONOR, MAY I RESPECTFULLY  
19 RECOMMEND THAT YOU TAKE THE PLEA TODAY AND THEN SEND IT  
20 OUT FOR THE PROBATION DEPARTMENT AND SEE WHAT INPUT HE  
21 CAN HAVE, IN CONJUNCTION WITH WHAT OTHER INPUT WE COULD  
22 PROVIDE?

23 THE COURT: WELL, IF THERE IS A REC. FOR YA  
24 HOUSING, THE COURT DOESN'T HAVE ANY OBJECTION TO THAT.

25 MR. DELA PENA: THAT'S OUR REQUEST.

26 THE COURT: IS THERE AN OBJECTION?

27 MR. CEBALLOS: IT WON'T BE ANY PROBLEMS,  
28 ALTHOUGH, BECAUSE OF THE CHARGES, THERE IS A VERY

1. DISTINCT POSSIBILITY THAT YA WILL NOT ACCEPT HER  
2. BECAUSE SHE IS 19. IF SHE WERE 18 OR YOUNGER,  
3. THEY WOULD TAKE HER. BUT AT 19, YOU CAN ONLY RECOMMEND  
4. IT.

5. MR. DELA PENA: THAT'S FINE, YOUR HONOR.  
6. THE COURT: ALL RIGHT.

7. MR. CEBALLOS: DARLENE ANGELA VARGAS, TO  
8. INFORMATION KA943362, COUNT 1, VIOLATION OF PENAL CODE,  
9. SECTION 215, SUBSECTION A, A FELONY, THE CRIME OF  
10. CARJACKING, HOW DO YOU PLEAD?

11. THE DEFENDANT: GUILTY.

12. MR. CEBALLOS: TO THE CRIME OF SECOND-DEGREE  
13. ROBBERY, IN VIOLATION OF PENAL CODE SECTION 211, A  
14. FELONY, HOW DO YOU PLEAD?

15. THE DEFENDANT: GUILTY.

16. MR. CEBALLOS: COUNSEL, DO YOU JOIN IN THE PLEA  
17. AND WAIVERS, STIPULATE TO A FACTUAL BASIS?

18. MR. DELA PENA: I DO, SIR.

19. THE COURT: ALL RIGHT, THANK YOU, COUNSEL.

20. THE COURT FINDS THE DEFENDANT HAS  
21. EXPRESSLY WAIVED HER CONSTITUTIONAL AND STATUTORY  
22. RIGHTS WITH RESPECT TO THE TWO COUNTS OF CARJACKING AND  
23. ROBBERY.

24. THE COURT FINDS THE WAIVERS WERE  
25. KNOWINGLY, INTELLIGENTLY, AND UNDERSTANDINGLY MADE, THE  
26. DEFENDANT UNDERSTANDS THE NATURE OF THE CHARGES, THE  
27. CONSEQUENCES FOR HER PLEA TO EACH CHARGE, THERE IS A  
28. FACTUAL BASIS BY STIPULATION.



1 THE COURT FURTHER FINDS THE PLEA TO BE  
2 FREELY AND VOLUNTARILY GIVEN. THE COURT ACCEPTS THE  
3 SAME.

4 WAIVE ARRAIGNMENT FOR JUDGMENT, MR. DELA  
5 PENA?

6 MR. DELA PENA: YES, SIR.

7 THE COURT: HAVE YOU CALCULATED HER CREDITS?

8 MR. DELA PENA: YES, I HAVE SIR. 94 DAYS  
9 ACTUAL.

10 AND I BELIEVE 21 GOOD WORK.

11 THE COURT: IT WOULD BE 21? I THINK IT WOULD BE  
12 42. ✓

13 MR. CEBALLOS: YEAH. SHE IS ENTITLED TO.  
14 HALF-TIME CREDIT.

15 THE COURT: RIGHT. SO IT'S 42.

16 MR. DELA PENA: RIGHT.

17 THE COURT: ALL RIGHT. DEFENDANT WILL RECEIVE A  
18 TOTAL CREDIT OF 136 DAYS TOWARD THE TERM.

19 THE COURT IMPOSES A THREE-YEAR TERM  
20 PURSUANT TO THE CASE SETTLEMENT AGREEMENT. THAT'S THE  
21 MID-TERM ON COUNT 2 TO RUN CONCURRENT WITH THE LOW TERM  
22 ON COUNT 1.

23 RESTITUTION FINE PER 1392.4 IN THE  
24 AMOUNT OF \$600 IS IMPOSED.

25 RESTITUTION TO THE VICTIM IS ORDERED, IF  
26 THERE IS ANY.

27 FINE PER 1202.45 IN THE AMOUNT OF \$600  
28 IS IMPOSED BUT SUSPENDED.

1 THE COURT WILL RECOMMEND THAT THE  
2 DEFENDANT BE HOUSED AT CALIFORNIA YOUTH AUTHORITY.

3 MR. DELA PENA: THANK YOU, YOUR HONOR  
4 THE COURT: THANK YOU, MR. DELA PENA.

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6 (PROCEEDINGS CONCLUDED.)  
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# California

## BALLOT PAMPHLET

INCLUDES  
CANDIDATE STATEMENTS

### Important Notice to Voters

Information regarding measures that might be adopted by the Legislature after August 16, 1994 will be included in a supplemental ballot pamphlet that will be mailed to you. You can also obtain one from your county elections office or by calling 1-800-345-VOTE.

# General Election

## NOVEMBER 8, 1994

### CERTIFICATE OF CORRECTNESS

I, Tony Miller, Acting 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, 1994, and that this pamphlet has been correctly prepared in accordance with law.



Witness my hand and the Great Seal of the State in Sacramento, California, this 16th day of August 1994.

*Tony Miller*

TONY MILLER  
Acting Secretary of State



## Secretary of State

SACRAMENTO 95814

Dear Voter:

This is your California Ballot Pamphlet containing information regarding the statewide general election on November 8, 1994. Ballot measure titles and summaries for this ballot pamphlet were prepared by the Office of Attorney General Daniel E. Lungren. The impartial analyses of the measures, an overview of the state bond debt and the explanations of "Yes" and "No" votes were prepared by the Office of Legislative Analyst Elizabeth G. Hill. The pro and con arguments and rebuttals were prepared by proponents and opponents of the propositions. The texts of the propositions were proofed by the Office of Legislative Counsel Bion M. Gregory. The candidate statements and photographs were prepared by the candidates. The printing was done under the supervision of State Printer Celeste Maia Cron.

All of those involved in the preparation of this pamphlet are constantly looking for ways to make the California Ballot Pamphlet better. Many suggestions made by voters have been put to use in this pamphlet. New features this election include expanded statements from candidates for statewide office, an explanation of the job duties of each office, and an explanation of the electoral procedure for justices of the Supreme Court and courts of appeal. We hope these features prove useful and informative as you make your choices in this general election. We invite you to send your comments, suggestions, and new ideas for possible inclusion in future ballot pamphlets. Send your ideas to California Ballot Pamphlet, 1230 J Street, Sacramento, California 95814.

Please vote on November 8!

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**PROPOSITION 182 WAS REMOVED BY LAW**

## November 8, 1994 Ballot Measures

	SUMMARY	WHAT YOUR VOTE MEANS	
		YES	NO
<p style="text-align: center;"><b>181</b></p> <p style="text-align: center;"><b>PASSENGER RAIL AND CLEAN AIR BOND ACT OF 1994.</b></p> <p style="text-align: center;">Bond Act</p> <p style="text-align: center;">Put on the Ballot by the Legislature</p>	<p>This act provides for a bond issue of one billion dollars (\$1,000,000,000) to provide funds for acquisition of rights-of-way, capital expenditures, and acquisitions of rolling stock for intercity rail, commuter rail, and rail transit programs.</p>	<p>A <b>Yes</b> vote on this measure means: The state would be authorized to issue \$1 billion in general obligation bonds to construct rail lines and related facilities and to acquire rights-of-way, rail cars, and locomotives.</p>	<p>A <b>No</b> vote on this measure means: The state would not be authorized to issue \$1 billion in general obligation bonds to construct rail lines and related facilities and to acquire rights-of-way, rail cars, and locomotives.</p>
<p style="text-align: center;"><b>183</b></p> <p style="text-align: center;"><b>RECALL ELECTIONS. STATE OFFICERS.</b></p> <p style="text-align: center;">Legislative Constitutional Amendment</p> <p style="text-align: center;">Put on the Ballot by the Legislature</p>	<p>Authorizes recall elections to be held within 180 days of certification of sufficient signatures to enable consolidation of recall elections with regularly scheduled elections. Current law provides that recall elections must be held between 60 and 80 days of the date of certification of sufficient signatures. Fiscal Impact: Potentially significant savings to state and local governments.</p>	<p>A <b>Yes</b> vote on this measure means: Recall elections could be consolidated with the next regularly scheduled election under certain circumstances, avoiding the need for a special election.</p>	<p>A <b>No</b> vote on this measure means: Recall elections would continue to be held 60 to 80 days after the Secretary of State certifies the recall petitions, thus requiring that a special election be held if no other election is scheduled.</p>
<p style="text-align: center;"><b>184</b></p> <p style="text-align: center;"><b>INCREASED SENTENCES. REPEAT OFFENDERS.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Increases sentences for convicted felons who have previous convictions for certain serious or violent felonies. Includes as prior convictions certain felonies committed by older juveniles. Fiscal Impact: Reaffirms existing law, which results in annual state costs initially of hundreds of millions increasing to multibillion dollars. Unknown net impact on local governments. Unknown state and local savings for costs of crimes not committed. No direct fiscal impact resulting from measure.</p>	<p>A <b>Yes</b> vote on this measure means: There would be no change to existing law. Rather, this vote would reaffirm the law enacted in March 1994 which provides longer prison sentences for repeat offenders.</p>	<p>A <b>No</b> vote on this measure means: There would be no change to existing law. Rather, this vote would not reaffirm the law enacted in March 1994 which provides longer prison sentences for repeat offenders.</p>
<p style="text-align: center;"><b>185</b></p> <p style="text-align: center;"><b>PUBLIC TRANSPORTATION TRUST FUNDS. GASOLINE SALES TAX.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Provides for an additional 4% tax on gasoline sales. Revenues for electric rail and clean fuel buses, light rail, commuter and intercity rail systems, and other transportation-related programs, including wetlands, riparian habitat and parks. Fiscal Impact: Increased gasoline sales tax revenues of about \$630 million annually. Multimillion dollar annual increases in state and local costs for mass transportation services, potentially offset by unknown amount of revenues.</p>	<p>A <b>Yes</b> vote on this measure means: The state would raise the sales tax on gasoline by 4 percent and use the resulting revenues to pay for (1) capital and operating improvements to passenger rail and mass transit bus services and (2) safety and operating improvements to streets and highways.</p>	<p>A <b>No</b> vote on this measure means: The state would not raise the sales tax on gasoline to pay for (1) capital and operating improvements to passenger rail and mass transit bus services and (2) safety and operating improvements to streets and highways.</p>
<p style="text-align: center;"><b>186</b></p> <p style="text-align: center;"><b>HEALTH SERVICES. TAXES.</b></p> <p style="text-align: center;">Initiative Constitutional Amendment and Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Establishes health services system, defined benefits, for California residents to replace existing health insurance, premiums, programs. Costs/provider payments funded by employer, individual, tobacco taxes. Elected Health Commissioner administers fund/system. Fiscal Impact: Potentially over \$75 billion in government funds to provide health insurance. Costs could be greater or less than funds. Potential government savings over time. Impact on state revenues over time, uncertain, probably not major.</p>	<p>A <b>Yes</b> vote on this measure means: The state would administer a system of health care coverage for California residents, financed by new taxes and, potentially, a transfer of existing government funds for health care programs. The system would replace most privately financed health insurance.</p>	<p>A <b>No</b> vote on this measure means: The existing system of health care coverage would be retained, whereby most persons are insured through their employers or privately purchase insurance while others may receive health care through government programs or charitable care from private hospitals.</p>
<p style="text-align: center;"><b>187</b></p> <p style="text-align: center;"><b>ILLEGAL ALIENS. INELIGIBILITY FOR PUBLIC SERVICES. VERIFICATION AND REPORTING.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Makes illegal aliens ineligible for public social services, public health care services (unless emergency under federal law), and attendance at public schools. Requires state/local agencies report suspected illegal aliens. Fiscal Impact: Annual state/local program savings of roughly \$200 million, offset by administrative costs of tens of millions (potentially more than \$100 million in first year). Places at possible risk billions of dollars in federal funding for California.</p>	<p>A <b>Yes</b> vote on this measure means: Only persons who could show they are citizens or in this country legally could receive certain education, health, or welfare services.</p>	<p>A <b>No</b> vote on this measure means: There would be no new requirements for persons to show they are citizens or in this country legally in order to receive education, health, or welfare services.</p>
<p style="text-align: center;"><b>188</b></p> <p style="text-align: center;"><b>SMOKING AND TOBACCO PRODUCTS. LOCAL PREEMPTION. STATEWIDE REGULATION.</b></p> <p style="text-align: center;">Initiative Statute</p> <p style="text-align: center;">Put on the Ballot by Petition Signatures</p>	<p>Preempts local smoking laws. Replaces existing regulations with limited public smoking ban. Permits regulated smoking in most public places. Increases penalties for tobacco purchases by, and sales to, minors. Fiscal Impact: Likely, but unknown, annual increase in state and local government health care costs and state tobacco tax revenues. State enforcement costs of less than \$1 million annually.</p>	<p>A <b>Yes</b> vote on this measure means: A statewide smoking law would go into effect that is generally less restrictive than current law.</p>	<p>A <b>No</b> vote on this measure means: Current statewide laws regulating smoking (which generally are more restrictive than the provisions of this measure) would remain in effect.</p>

## November 8, 1994 Ballot Measures—Continued

ARGUMENTS		WHOM TO CONTACT FOR MORE INFORMATION	
PRO	CON	FOR	AGAINST
<p>A YES vote on Proposition 181 will:</p> <ul style="list-style-type: none"> <li>• Expand rail service throughout California</li> <li>• Reduce traffic congestion</li> <li>• Improve air quality</li> <li>• Help stimulate California's economy</li> </ul> <p>This isn't a new tax. Rather, it authorizes the sale of \$1 billion in state bonds to improve and expand intercity, commuter and urban rail systems in California.</p>	<p>This is a billion dollar boondoggle that even the measure's author, Assemblyman Jim Costa, agrees should not be on the ballot. Taxpayers shouldn't pay for more rail projects—current ridership still lags behind capacity. Voters rejected red ink-generating bond measures in June. They should do it again.</p>	<p>NOT PROVIDED</p>	<p>McClintock for Controller 1107 Second Street, Suite 210 Sacramento, CA 95814 (916) 446-7300</p>
<p>Proposition 183 improves the recall process by making it easier to combine recall elections with regularly scheduled elections. More voters will participate and taxpayers can save millions of dollars by avoiding special, stand-alone elections. The League of Women Voters supports Proposition 183.</p>	<p>Recall is your constitutional RIGHT to remove elected officers before their terms expire. Recalling a dishonest politician SAVES taxpayers money and cuts off greedy special interests. Don't allow politicians to delay recalls while they continue to waste tax dollars. VOTE NO to keep your right to stop political corruption.</p>	<p>Senator Milton Marks State Capitol, Room 5035 Sacramento, CA 95814 (916) 445-1412 Attention: Darren Chesin</p>	<p>Assemblyman Mickey Conroy CA State Capitol, Room #4102 Sacramento, CA 95814</p>
<p>Proposition 184 keeps rapists, murderers and child molesters behind bars where they belong. Police, taxpayer, crime victim and prosecutor organizations support 184. Let's make California safe for children, families and seniors again. 3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS! Let's tell <i>serious/violent</i> career criminals "3 Strikes and You're Out!"</p>	<p>Law enforcement and crime victims say this version of "three strikes" is bad law. Three out of four given life sentences under this law will be non-violent offenders. Punishing non-violent criminals like violent ones doesn't make sense and will cost taxpayers billions of dollars. Vote <i>No</i> on Proposition 184!</p>	<p>3 Strikes and You're Out Committee 325 Pollasky Clovis, CA 93612 (209) 322-8646</p>	<p>Taxpayers for Effective Crime Prevention 6380 Wilshire Blvd., Suite 123 Los Angeles, CA 90048 (213) 937-7622</p>
<p>Slash transportation waste and bureaucracy. Stop the Legislature from raiding transportation funds. Develop electric and clean fuel bus and rail systems. Clean our air and save energy. Make roads and bridges earthquake-safe. Provide transit for disabled and senior citizens. Restart California's economy. Create jobs. Vote YES on 185.</p>	<p>Another TAX INCREASE! A \$700 million annual SALES TAX INCREASE on gasoline. 185 is double taxation! 185 also creates an ALL-POWERFUL, Sacramento COMMITTEE of three POLITICAL APPOINTEES with the SOLE AUTHORITY to spend billions of our taxpayer dollars. Our taxes already are TOO HIGH. VOTE NO on 185.</p>	<p>Planning and Conservation League 926 J Street, #612 Sacramento, CA 95814 (916) 444-8726, ext. 86</p>	<p>Californians Against the \$700 Million Tax Increase 11444 W. Olympic Blvd., #1018 Los Angeles, CA 90064 (310) 445-8885</p>
<p>YES means all legal California residents get LIFETIME MEDICAL COVERAGE, including LONG TERM CARE and PRESCRIPTIONS. You choose your doctor. You will no longer pay any insurance premiums and deductibles. Only a smaller health tax—with vastly better coverage. Your life savings will be safe from medical bills forever.</p>	<p>186 hurts families, taxpayers, businesses. Government takes over health care. Huge bureaucracies. \$40 billion in new taxes. \$30 billion-plus shortfalls: even higher taxes, rationing, or cuts in school, crime, other programs. No guarantee of physician choice. Consumers, seniors, nurses, physicians, businesses: "NO" on 186—a bankrupt, false promise.</p>	<p>Californians for Health Security 5208 Claremont Avenue Oakland, CA 94618 1-800-525-0101</p>	<p>Taxpayers Against the Government Takeover, No on Proposition 186, a Coalition of Nurses, Business, Seniors, Taxpayers, Insurers and Hospitals 915 L Street, #C240 Sacramento, CA 95814 (916) 852-6494 or 1-800-220-3232</p>
<p>It excludes ILLEGAL ALIENS from receiving public social services, publicly funded health care (except for emergency care required by federal law), educational benefits from elementary, secondary schools, and higher education. Makes it a felony to manufacture, distribute, sell or use false documents to obtain benefits reserved for legal residents.</p>	<p>Proposition 187 makes a bad situation WORSE. It WON'T SOLVE our illegal immigration problem. 187 does ABSOLUTELY NOTHING to beef up enforcement at the border. But because it's POORLY DRAFTED, 187 could END UP COSTING TAXPAYERS \$10 BILLION. LAW ENFORCEMENT, EDUCATION and MEDICAL officials OPPOSE 187. VOTE NO on 187!</p>	<p>Ronald Prince Save Our State Headquarters (714) 544-1514</p>	<p>Taxpayers Against 187—It Makes a Bad Situation Worse! 111 Anza Blvd., #406 Burlingame, CA 94010 (415) 340-0470</p>
<p>Proposition 188 (1) helps protect nonsmokers by regulating smoking in public and helps keep tobacco away from minors; (2) prohibits smoking in restaurants and workplaces except in separate smoking areas meeting tough ventilation standards; (3) is a reasonable and fair solution balancing interests of nonsmokers and smokers, employers and employees.</p>	<p>NO on 188! The tobacco industry wants 188 to eliminate smoke-free areas and overturn tough local laws discouraging tobacco sales to children. 188 will cost taxpayers billions because of disease from smoking and secondhand smoke. OPPOSED by American Cancer Society, American Lung Association, American Heart Association, and PTA.</p>	<p>Californians for Statewide Smoking Restrictions 10866 Wilshire Blvd., Suite 550 Los Angeles, CA 90024 (310) 475-9494</p>	<p>Coalition for a Healthy California 1-800-ACS-2345</p>

## Candidate Statements

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### U.S. SENATOR

- One of two U.S. Senators who represent California's interests in the Senate in Washington, D.C.
  - Proposes and votes on new national laws.
  - As a U.S. Senator, votes on confirming federal judges and U.S. Supreme Court Justices.
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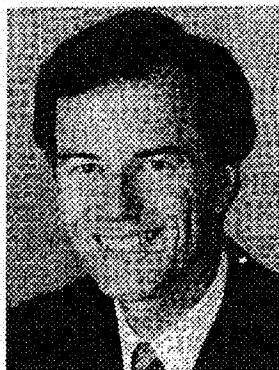


#### Dianne FEINSTEIN

Democratic

Elected as California's senior Senator in 1992, I've been an independent voice working hard to break gridlock in Washington and make a difference on issues that affect all Californians. As a new member of the Senate Judiciary Committee, I fought for and the Senate passed the strongest crime bill in history, making more than 50 federal crimes death penalty offenses and putting 100,000 more police officers on our streets. I sponsored zero-tolerance legislation to rid our schools of guns. As a member of the Appropriations Committee, I fought for \$8.6 billion in earthquake aid and funds to hire 1,300 new border patrol agents. We passed a deficit reduction plan, cutting the deficit three years in a row for the first time since Truman, that helped lower interest rates, gave tax incentives to 90% of small businesses and created 3 million jobs nationally. But more is needed. That's why I authored a program for small business to create 100,000 new jobs. I'm proud of what I've been able to accomplish for California in my first year, but much more needs to be done: to reduce violence, create jobs, stop illegal immigration and improve education—my top priorities as a Senator.

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#### Michael HUFFINGTON

Republican

My career has been spent in business—not politics. I view public service as a way to help people, not as a profession. If you elect me, here's my Contract with you and the people of California. 1. I will not become a career politician. I will serve only two terms in office. 2. I will accept no campaign contributions from special interests. 3. I will vote to cut spending, taxes, and eliminate the budget deficit by working for a constitutional amendment to balance the budget. Above all, I'll be an independent voice for California—for tough laws on criminals, welfare reform, smaller government, lower taxes, good jobs, and those values which strengthen individuals and families, not government. Together, we'll finally restore common sense to government.

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#### Elizabeth Cervantes BARRÓN

Peace and Freedom

I was born and raised in Central Los Angeles. I grew up in a multi-ethnic, multi-cultural environment where I learned to respect those who were different from me. I joined the Peace and Freedom Party in 1968. I am a teacher and am aware of how cut-backs in education have affected our children and communities. Our children hold the key to our country's future. We must provide a safe environment and a decent education for our children. Money needs to be returned to schools so that all those who want an education can go as far as they want or are able. At this time the rich and powerful run the country. They are not interested in our needs. We must not let them divide us by race, class, religion, sex, sexual preference, citizenship, etc. We want an end to the scapegoating of immigrants. The fact is they pay more in taxes than they receive in services. The single payer health plan will give all of us medical service when we need it. Clean, non-contaminated air, water and food is something we are entitled to. Large corporations that have been polluting these resources need to be held accountable.

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U.S. SENATOR—Continued

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**Richard Benjamin BODDIE**

Libertarian



Voting for Richard Boddie (say "body") and other Libertarians is not a wasted vote. You should vote for the candidate you agree with. Voting is not a horse race. Your vote sends a message to incumbents that you aren't happy with the way they're running things. I believe strongly in individual rights, the free market, very limited government, and tolerance. It's time to really clean house in Washington, and you must know by now that the establishment parties have no desire to do it. I'll work to repeal the federal income tax and abolish the IRS. We must end the destructive War on Drugs and re-legalize drugs like they were before 1914. I oppose U.S. military intervention abroad and will work to bring our troops home. I strongly oppose Clinton's health care plan, which will destroy our liberties and nationalize one-seventh of the nation's economy. I support the right of Americans to keep and bear arms for self-defense. The federal government must not be allowed to commit criminal acts against our people. I call for the prosecution of Janet Reno and other government officials for the mass murder of Branch Davidians at Waco. For more information, call 1-800-637-1776.

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**Barbara BLONG**

Green



An educator and environmentalist, I am your candidate for hope, change and growth. The Green Party is founded on values of environmental and social justice, nonviolence, feminism and respect for diversity. These values frame our stand against the racist, hate-mongering Anti-Immigrant Initiative 187: *Greens Say No!* The Three-Strikes Initiative attacks the symptoms of crime, not its causes: *Greens Say No!* Instead of focusing resources on punitive measures, we must care for ourselves and our society by supporting the *Single Payer Health Plan*, restoring our education system to excellence, and respectfully nurturing the well-being of all. I'll introduce a Full Employment Bill, locally administered, making environmental, creative, healing jobs available to everyone. I'll advocate non-violent resolution of conflict and re-consideration of NAFTA/GATT—free trade should not cost American jobs or weaken environmental laws. Disgusted with outrageously expensive, negative campaigning? I'll introduce electoral reforms to promote issue-based campaigns. As we transform our relations with each other and with the earth from dominance and exploitation to partnership, we begin healing our society and our planet. Vote for me as your next U.S. Senator—a caring, feminist representative for *all* the people! Barbara Blong, Box 401054, San Francisco, 94110, (415) 255-2940.

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## GOVERNOR

- As the state's chief executive officer, oversees most state departments and agencies and appoints judges.
- Proposes new laws and approves or vetoes legislation.
- Prepares and submits annual state budget.
- Responsible for mobilizing and directing state resources during emergencies.



### Jerome (Jerry) McCREADY

American Independent

As a self-employed businessman, I have learned firsthand what it is like to try to make ends meet in an unstable economy being manipulated by out of touch politicians. I know it is impossible to create utopia here in our state overnight, however, when given the opportunity, I will show you how free citizens can take our state back with the most powerful weapon we have, our vote. I believe we all need to pay an equal amount of taxes and we have a right to expect an equal amount of services and total accountability from elected servants. I am pro-life, pro-second amendment, pro-death penalty, for tougher penalties for serious juvenile offenders, for boot camp and work farms for non-violent offenders, less spending on prisons, and less government involvement in education and our daily lives! I believe the Federal government should enforce immigration laws already in existence, if they can't or won't, then the state should step in and take whatever steps are needed to protect the lives, rights, and property of free legal citizens! For information, or to contribute, write 10997 Seymour Street, Castroville, CA 95012 or call (408) 633-2644, (408) 633-4008, FAX (408) 633-2745.



### Gloria Estela LA RIVA

Peace and Freedom

Six million Californians have no healthcare, three million are unemployed. In the richest state, why are millions becoming poorer? Because the capitalist politicians, Republican and Democrat, run the state to enrich corporations and banks, at the expense of workers and poor people. The 1994-1995 state budget is a disaster: Assistance for the disabled, elderly, women and children will be cut; college fees will increase 10% while taxes for the rich are reduced. Workers create all the wealth, but the corporations reap huge profits. I say tax big business to provide jobs and services, and balance budget. Stop union-busting, we need unions. I oppose racist immigrant-bashing and Proposition 187. Immigrants must have equal rights, living wages. We must unite—all workers and poor people—to win jobs, housing, healthcare, childcare, education, environmental protections—not prisons. I oppose the death penalty and "Three Strikes" Proposition 184. I support proportional representation, and Health Care Proposition 186. No to racism, sexism, anti-gay bigotry. I oppose all U.S. interventions abroad. As a socialist, member of Peace & Freedom Party and Workers World Party. I am the only candidate who firmly defends working class. 2489 Mission #23, San Francisco, CA 94110, (415) 826-4828.



### Pete WILSON

Republican

Together, we've survived tough times in California—fires, earthquakes, global recession and massive defense cuts. But despite tough times, we've made important, needed change to make California healthy again. I've signed America's toughest "Three Strikes, You're Out" law to remove career criminals from our streets and implemented California's death penalty for the first time in 25 years. I slashed red tape to rebuild earthquake-damaged freeways in record time and created thousands of new jobs for our workers. I've sued Washington to control illegal immigration and sent the National Guard to back up the Border Patrol. And I launched welfare reform, saving taxpayers \$2.2 billion. The working people of California—who work hard, pay their taxes, and raise their children to obey the law—deserve a break. You deserve lower taxes and less government—with able-bodied adults off welfare, working, earning self-respect. You deserve to choose your child's school—safe from drugs, guns and gangs. You deserve an end to illegal immigration that's overwhelming our state. With strong leadership we can beat tough times. I ask your support to continue making the change California must make to be safe, prosperous and fair.

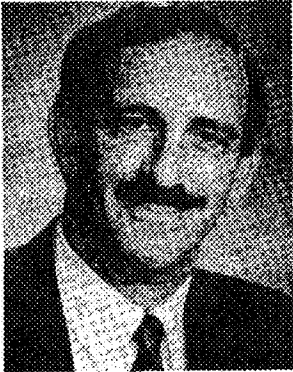
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**Richard RIDER**

Libertarian



California is arguably the most pro-tax, pro-welfare, pro-regulation, pro-litigation, anti-business state in the nation. I will take a "meat ax" approach to the state budget, the welfare system, the state bureaucracy and the litigation ripoff. My background is financial. I'm a stockbroker and financial planner. As a retired Naval Reserve Commander and a Vietnam veteran, I know how government works. Most important, I fight taxes. I sued and overturned an unlawful \$1.5 billion county sales tax. The case, *Rider vs. County of San Diego*, is now being used across the state by taxpayer groups to repeal other illegal taxes. It is estimated that this ruling will save California taxpayers well over *eight billion dollars*. In a controversial move, I endorsed Republican Ron Unz in the June primary. Now I am "Plan B." Like Unz, I support school vouchers, am pro-gun, oppose asset forfeiture laws and would repeal the mandatory helmet statutes. The disastrous workers' comp system should be replaced with limited disability insurance policies. No more fine tuning. Only a *massive* reduction in state government will bring back California prosperity while returning to us our Constitutional freedoms. For more information, call 619-530-1777.

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**Kathleen BROWN**

Democratic



For generations, families came to California for the promise of good jobs, affordable homes, quality schools, and safe neighborhoods. But today, California has broken its promise to middle-class families. Year after year, state government has mismanaged our budget and wasted our tax dollars—then forced California families to pay the price. Middle-class families were hit by a 7 billion dollar tax hike and massive takeaways of family services like sheriff and fire protection, libraries, parks and hospitals. All this while California families lost 550,000 jobs. As Governor, I'll be a tough money manager strengthening our economy by cutting bureaucracy, overhauling welfare, and eliminating our 3 billion dollar budget deficit. By investing in our schools and making colleges affordable, I'll halt the decline of our education system. With more cops on the street, an assault weapons ban, boot camps for juvenile lawbreakers, and enforcement of the death penalty, I'll help make our neighborhoods safe for families again. And my economic plan will create one million private sector jobs for middle-class families. Only tough management can rebuild our economy and restore the California promise for middle-class families. Kathleen Brown for Governor, (310) 207-7600.

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## LIEUTENANT GOVERNOR

- Assumes the office and duties of Governor in the case of impeachment, death, resignation, removal from office or absence from the state.
  - Serves as President of and presides over the State Senate and has a tie-breaking vote.
  - Chairs the Economic Development Commission, is a member of the State Lands Commission and sits on the boards of the California university systems.
  - Serves as an ex-officio member of the California State World Trade Commission.
- 

### Daniel MOSES

Green

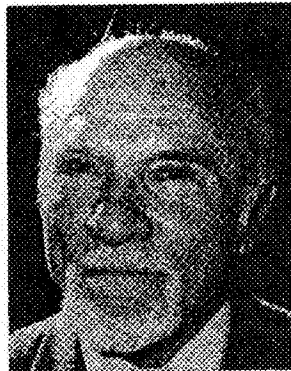


The Green Party calls for a new definition of "progress," one based on qualitative factors like healthy cities, environmental justice, sustainability, ecological restoration, and nonviolence. Help us change the current political agenda that mistakenly promotes corporate growth as the answer to all economic problems. Without ecology there's no economy. The following major duties of the Lt. Governor would benefit from a Green perspective: (1) Chairing the Economic Development Commission—increase emphasis on community-based economics (keeping money circulating within communities), including start-up help for nonprofit community-development corporations, profit-sharing or employee-owned businesses, cooperatives, protection of credit unions, farmers' markets; support for organic agriculture. (2) Serving on the State Lands Commission—shift toward preserving "ecosystem integrity" of our public lands; protect entire California coast from further gas and oil drilling (while pushing renewable energy and efficiency). (3) Serving on U.C. Board of Regents and C.S.U. Board of Trustees—stop fee hikes; trim administrative budget fat; democratize selection of regents; encourage curriculum changes to include ecoliteracy, critical thinking skills, respect for diversity, and nonviolence. Only truthfulness, love, and nonviolence can foster a better California. Elect a Green Lt. Governor. (P.O. Box 411, Moss Beach, 94038).

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### Bob NEW

Libertarian



I am a small business owner who has seen Democratic and Republican politicians alike wreck California's economy and crush our personal liberties. I will use the position of Lt. Governor as a forum to promote less government and more personal responsibility. I will work to: repeal the state income tax; deregulate the economy by eliminating all state agencies that stifle the free market; privatize public services (private companies provide more efficient and economic services than government agencies do); slash crime by ending the failed War on Drugs and re-legalizing drugs as they once were; provide tax credits to parents who home school or send their kids to private schools; repeal paternalistic safety regulations like seat belt and motorcycle helmet laws; end welfare for everyone, not just illegal immigrants; and strongly defend our 2nd Amendment right to keep and bear arms for self defense. The Libertarian Party platform calls for abolishing the office of Lt. Governor, an official who waits around for the Governor to die. Seven states (including Oregon and Arizona) don't have such an unnecessary position, and they are getting along just fine. Eliminating this office will save taxpayers \$1.5 million per year. For more information, call 1-800-637-1776.

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### Robert LEWIS

American Independent



Californians, when headlines read "Assembly OK's Sham Budget, Legislators Refuse \$5 Billion Shortfall, State to Borrow from Foreign Banks and Lawmakers Granted 37 Percent Pay Raise", why keep voting the same way? My primary statement gave alarm about unbalanced budgets, uncontrolled debt and how government seeks to abdicate its voter "accountability". This Tuesday—November 8th, you can again vote for a Lieutenant Governor pledged to "see no evil" in the Legislature, "hear no evil" about corruption and "speak no evil" about money, the "golden calf" that has purchased the "allegiance" of career hacks. Or you can vote a candidacy based on the petitions of Independents—American Independents throughout California, and not money. You can remake this Ceremonial Officer Lieutenant Governor into the "independent conscience" of the Executive Branch, not another hack beholden to the "golden calf"! As State Senate President able to expose the contamination that has "convicted five legislators" in four years. For information call 818 964-0875, fax 818-912-4042 or write 2231-8 Fullerton Road, Rowland Heights 91748.

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## LIEUTENANT GOVERNOR—Continued

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### Gray DAVIS

Democratic



I'm running for Lieutenant Governor to help *bring California back!* As Controller, I've fought hard to increase jobs for Californians, support education and eliminate waste and fiscal abuses. Through aggressive audits, my office has saved taxpayers half a billion dollars, put 28 people behind bars for fraud and embezzlement, and shut down dozens of scam artists. We also exposed hundreds of non-residents illegally attending California schools and forced deadbeat parents to pay \$20 million in delinquent child support. As Lieutenant Governor, my highest priority will continue to be *creating jobs*. I'll cut red tape and move aggressively to keep and attract business here, as I did recently with Taco Bell. But escalating crime threatens our economic comeback and quality of life. I've always supported the death penalty and strongly support life sentences for three-time violent felons. And I'm proud to be endorsed for Lieutenant Governor by the *California Association of Highway Patrolmen; California State Police Association; California Organization of Police and Sheriffs; Riverside, San Bernardino and Sacramento Deputy Sheriffs; and Police Officer Associations in Los Angeles, San Francisco, San Diego, San Jose, Long Beach, Fresno, Sacramento and Santa Ana*. I'm also strongly pro-choice, and the only CARAL-endorsed candidate.

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### J. Luis GOMEZ

Peace and Freedom



The immigrant issue is not a problem that will disappear with legislation. Simply speaking, we are dealing with supply and demand on a very basic level. Although I am cautious about the free flow of capital without appropriate environmental and labor related safeguards, the flow of capital and labor across borders is a very natural occurrence. Rather than scapegoating immigrants for our economic shortcomings, I propose we shift our emphasis towards the *historic purpose of American immigration: the gradual transformation of immigrant into citizen*. This shift in emphasis would be one positive and productive method of addressing an issue that has become increasingly nasty and nonproductive. Present rules of our public universities require undocumented residents to pay nonresident fees, even when they can prove that they meet university residency requirements. I believe every resident of California should be allowed to pursue a college education free of charge. A more fully educated population will help produce needed economic growth. A state that continues to live off an increasingly discontented underclass will only continue to rot and decay. It's your vote, you can vote as you want to vote. Gomez for Lt. Governor, Box 26190, Los Angeles, CA 90026, (213) 484-1336.

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### Cathie WRIGHT

Republican



Dear Fellow Taxpayer, The current Lieutenant Governor joked that his "day consists of getting up in the morning, checking the morning papers to see if the Governor was still alive—and if he was, going back to bed." Clearly, something is wrong. *Together, we will fix the office of Lieutenant Governor*. Historically, Lieutenant Governors have been little more than caretakers plotting their next campaigns for higher office. That's inexcusable! As Lieutenant Governor, I will be your ombudsman—*Government Watchdog*—to make sure we get maximum value for our tax dollars. I led the fight in the State Senate to stop bureaucracy from eating up precious tax dollars. That's why taxpayers' groups around the state, such as the Howard Jarvis Taxpayers' Association, have endorsed me and say I'm "*The Taxpayer's Best Friend*." I've been just as dedicated to lower taxes as I've been in fighting crime and helping the people I represent cut their way through bureaucratic red tape. After November 8th, with Cathie Wright as *your* Lieutenant Governor, the office will be there to meet your needs, solve your problems, answer your questions and make government work—for *all* Californians. It's about time! Thank You! (805) 526-2956.

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## SECRETARY OF STATE

- As the state's chief elections officer, administers and enforces elections laws and keeps records of all campaign and lobbyist disclosure statements required under the Political Reform Act.
  - Files official documents relating to corporations, trademarks, the Uniform Commercial Code, notaries public and limited partnerships.
  - Collects and preserves historically valuable papers and artifacts in the California State Archives.
  - Serves as an ex-officio member of the California State World Trade Commission.
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### Peggy CHRISTENSEN

Libertarian



As California's chief election official, I would oppose any taxpayer funding of election campaigns. People should not have to pay for the campaigns of politicians they don't like. While I don't like the influence of lobbyists and their PAC money, I think the problem results from politicians having too many taxpayer goodies to give away. Cut the size and scope of government and PAC influence will decline accordingly. I support allowing parties to nominate candidates by convention instead of primaries, thus saving millions of tax dollars. Parties that hold primaries should pay for them. Also, I will work to place "None of the Above" on all ballots, so voters may reject all candidates for an office and thus force a new election. To protect political minorities, I favor proportional representation in the State Legislature, so parties would receive a percentage of legislative seats based on their percentage of the vote. This would allow members of the Libertarian, Green, Peace and Freedom and American Independent Parties to serve in state office and shake up the two establishment parties. I would save taxpayers money by transferring the function of chartering corporations and notaries public to private companies. For more information, call 1-800-637-1776.

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### Tony MILLER

Democratic



I'm not a career politician, but as Acting Secretary of State and an original member of the Fair Political Practices Commission, I am the most qualified person for this job. I was Chief Legal Counsel and Chief Deputy to former Secretary of State March Fong Eu, who endorsed my candidacy when she left office. I've also been a firefighter, teacher, criminal investigator and farmer. My highest priority is to ensure that our elections are fraud free. I've created an anti-fraud unit to enforce our election laws. I'm fighting for campaign finance reform. Lobbyists shouldn't be allowed to make or arrange campaign contributions. I'm working to reform the initiative process so it is not a tool of rich special interests. I want to put "none of the above" on the ballot for every office. I helped create the World Trade Commission and, as an ex-officio member, I'm promoting exports to create jobs. I'm cutting bureaucratic red tape to improve our economy. I've sponsored legislation to make the Secretary of State nonpartisan. As a victim of violent crime and a former criminal investigator, I support a strong "three strikes" law to put criminals behind bars. My telephone number is 1-916-447-5101.

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### Bill JONES

Republican



To change state government requires tough, aggressive leadership, strong character and determination. As author of the successful "3 Strikes and You're Out" legislation, I fought for and passed the toughest law against dangerous criminals in the nation. Now, I want to fight for the future of California's election system. While the Secretary of State's office has been under the same management for almost 20 years, voter participation has dropped to a record low, the threat of fraudulent voting by illegal aliens continues to grow, campaign reform remains deadlocked and we continue to waste millions of taxpayer dollars mailing election materials to voters who have died or moved away. To safeguard your vote, I have introduced a hard hitting 12 point plan to prevent voter fraud. I have authored five campaign reform bills to limit campaign contributions from special interests and eliminate the abuses in financing political campaigns. I am a family man of 23 years with two teenage daughters, a successful small business owner, rancher and legislator. I am endorsed by the Howard Jarvis Taxpayers Association and the California Coalition of Law Enforcement Agencies. I will bring vision and effective leadership to this important office. Thank you. For information: 916-449-2949.

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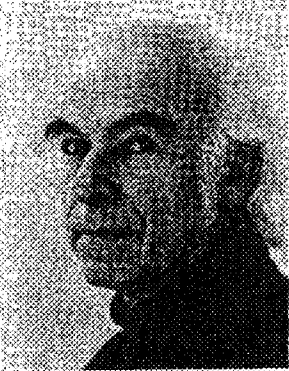
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## SECRETARY OF STATE—Continued

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### Israel FEUER

Peace and Freedom



Why vote for *me*? Why vote at all?? Why even bother about elections, politics, government!? Independent-thinking, open-minded, socially-conscious persons *demand*, and *deserve*, satisfactory *answers* and *convincing reasons*! It's time for a long overdue *reality check* on our politics. *Don't* be pulled under by cynicism and apathy about corruption and careerism; *don't* be taken in by "wasted vote" or "lesser evil" mentalities. We need *real reforms* that make believable "we, the people" governing "of, by, and for" ourselves. For starters, let's develop and experiment with: *contracts* of sorts between candidates and voters; *alternative vote* procedures such as proportional representation and approval/disapproval systems; *criteria* to evaluate candidates and proposals; *political EIRs* on all candidates and issues; *informational services* available as a right to all voters concerning candidates and measures; *and more*. . . . The office of Secretary of State should serve as *tribune/trustee* for the people, not as dynastic sinecure for bureaucrats or pit stop for politicians! I would be *proactive* and not merely reactive, administratively, legislatively, judicially, as the people's *agent/advocate*! Only with your help in *ideas, services, money, votes*, can we make the difference. . . . *Do it!* P.O. Box 24858, Los Angeles 90024, phone (310) 473-3498.

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### Margaret GARCIA

Green



As Secretary of State I want to ensure the most democratic elections possible. To do this, I advocate and will work for the following changes: Using the *Proportional Representation* elections system used in almost all of the world's democracies. Ensures one person-one vote, better representation for women and ethnic minorities, and fewer wasted votes. A binding "*None-of-the-Above*" on every ballot. *Voting on weekends*; extended poll hours. *Same day registration*. Voter education in schools and colleges. *Listening to the voters*. Whether we vote *no Malathion spraying*, or yes to auto insurance reforms, I want our voices to be recognized and respected. Easier ballot access by third parties. Make voting information available electronically. Review corporations charters, fine them when necessary, and revoke them when they act against the public good. Support the democratization of the *U. C. Regents & CSU Board of Trustees*. *Matching Funds*—to ensure fair campaigning and to discourage over spending in campaigns. *Free and Equal media access* for Campaigning. Encouraging grassroots, door-to-door campaigns. Running this office as *environmentally* sound as possible. No matter who you vote for, please vote and make your voice heard. (310) 693-2784 P.O. Box 9241, Whittier, CA 90608-9241.

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### Dorothy Kreiss ROBBINS

American Independent



I promise you, the Voter: to use my skills and knowledge (as an instructor in grammar, a published author, and a writer of manuals for parents to teach grammar, creative writing, and the U.S. Constitution to children) to give you clear, precise, understandable instructions and informational election material (1 Cor. 10:31); to keep within the duties delegated in our State Constitution; To obey only clear, understandable laws that conform to the U.S. Constitution and the Premises of our Founding Fathers; to run an efficient, economical office. Please call me at 916-241-1149, 11037 Erickson Way #79, Redding, CA 96003. Thank you.

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## CONTROLLER

- As chief fiscal officer, acts as the state's accountant and bookkeeper of all public funds.
  - Administers the state payroll system and unclaimed property laws.
  - Serves on numerous boards and commissions including the Board of Equalization and the Board of Control.
  - Conducts audits and reviews of state operations.
- 



### Kathleen CONNELL

Democratic

I'm a successful businesswoman, not a politician. As Controller, I'll stop government contractors ripping us off and politicians wasting taxpayer dollars. I'll conduct strict performance audits governmentwide to stop waste, fraud and corruption. I'll start in the Controller's office, cutting unnecessary boards and commissions. I'm also proposing tough new budget rules to make sure every dollar brings real results. My experience is in business, education and government finance—not in politics. I built a successful financial consulting business—helping California communities secure financing. I was Vice President of a major U.S. bank. I hold a PhD on finance and six securities licenses. I created UCLA's Center for Finance and Real Estate, and taught at UCLA and Berkeley where my students voted me an outstanding teacher. As L.A. City Housing Director, I helped 10,000 families find affordable housing. I am also the proud mother of two small boys. I'll bring to the Controller's office the sharp eye of a businesswoman, the economic expertise of a teacher, and the concern of a parent. I'll protect retirees' rights while investing public pension funds in California's future. I'll work to prepare California's young people for good jobs by strengthening community colleges. More information: 310-477-7707.

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### Tom McCLINTOCK

Republican

The Controller's office is designed in our constitution to be the taxpayers' watchdog. It is granted broad authority to identify, expose and eliminate government waste and mismanagement. I have devoted more than a decade to fighting waste in our state government. In the Legislature, I led the opposition to the tax increases and deficit budgets which have crushed our families and businesses. Currently, as director of a statewide taxpayer watchdog group, I have produced the most extensive studies of state government waste available. *This year, I identified \$11.5 billion of unnecessary expenditures in 161 programs which could be reduced or eliminated without affecting vital services.* That means locking up more criminals, improving education and returning the savings to California's working families. *I will use the Controller's authority to challenge billions of dollars of payments to illegal aliens* and to stop funding political extravagances. I am endorsed by virtually every taxpayer group in the state, including the Howard Jarvis Taxpayers' Association and the National Tax Limitation Committee. I need your help. With the auditing tools and the mandate to stop this waste, I will be the bureaucracy's worst nightmare and the taxpayers' best friend. Please join me at 916/446-7300.

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### Nathan E. JOHNSON

American Independent

I have been a California resident since 1959 and graduated from Southwestern Jr. College with an A.S. degree in Accounting in 1971. Since 1972 I have been employed by San Diego Transit and belong to Amalgamated Transit Union Local 1309. I have lived near the international border for 35 years and I am familiar with the daily problems of that relationship. I am pro-life, pro-gun, pro-death penalty, pro-restitution, pro-quality education, and anti-unfunded mandates. I want A to Z auditing with no sacred cows. I want to reduce taxes, repeal failed programs, and reduce bureaucratic red tape. I believe those actions will do much to restore the California economy. As Controller sitting on the various boards I will vote for the American Independent Party principles of fiscal responsibility and limited government. I support The National Taxpayers Union, The Rutherford Institute, and The Conservative Caucus.

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**Elizabeth NAKANO**

**Peace and Freedom**



California needs a common-sense budget that includes fair taxes. A state bank could direct public investment to projects that meet community needs. A state bank would reduce the high expense of bond financing. California then could have a vibrant economy with good jobs, good schools, and clean air: a place where we all could thrive. Proposition 13 was meant to protect homeowners. In 1978, homeowners paid 30% of all property taxes and business paid 70%. Today, business pays 30% and homeowners pay 70%. Let's revise Prop 13 so business property is assessed at fair market value, while homeowners keep their protection. This would produce \$9 billion in revenue and close the existing budget gap. Increasing California's prison population five times over *did not reduce crime!* Full employment, good schools are the best crime control. As Controller, I won't remain an obscure figure who puts a signature on checks and underwrites the fraudulent policies of the government. As an advocate of the people, I will bring the issues out so people can make intelligent decisions. I am a retired social worker with two sons and a grandson. Nakano for Controller, Box 26190, Los Angeles 90026 (213) 484-1336.

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**Cullene Marie LANG**

**Libertarian**



I am Cullene Lang, Libertarian candidate for Controller. The meddlesome practices of government have hurt our citizens and economy. I believe in a minimal and fiscally responsible government, fewer taxes and in the inalienable rights of the individual. As Controller, I will work for *you*. In me, the taxpayers will have a voice and a vote in their favor on the tax boards. I will never vote to raise or continue a tax, and favor merging tax boards to minimize the redundancy in bureaucracy. As with the Board of Equalization, citizens should be able to elect, or remove from office, any member of the tax boards. I bring a willingness to work hard and a determination to get the job done effectively and responsibly. As a third party candidate, I don't have the traditional political axes to grind. I'll represent the interests of the electorate. Under me, the office of the Controller will be truly independent and not subject to inter-party bickering. I will earnestly attempt to affect policy to improve the state's bond credit rating. I'm pro-economic growth, pro-privacy and anti-big government. For more information about the Libertarian alternative, call (800) 637-1776.

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## TREASURER

- As the state's banker, manages the state's investments.
  - Administers the sale of state bonds and notes and is the investment officer for most state funds.
  - Chairs or serves on several commissions most of which relate to the marketing of bonds.
  - Pays out state funds when spent by the Controller and other state agencies.
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### Phil ANGELIDES

Democratic



I am an experienced businessman, with proven financial skills, who will invest our tax dollars wisely, cut government waste and fight corruption. I will work hard to restore California's top credit rating; invest more in California; and protect tax dollars needed to improve education, build a strong economy, and fight crime. *We need someone with proven business and financial skills to be Treasurer—not just another politician.* I get things done. I built a successful, nationally acclaimed company, created 30,000 jobs, and convinced Apple Computer to keep jobs in California. My wife Julie and I are proud of our work to improve our community, from helping to rebuild the public library to building parks. I am endorsed by the state's largest police organization (PORAC), other law enforcement groups throughout the state, and the California Teachers Association, and have earned the support of business leaders of both parties. I want to be Treasurer to rebuild our state—for my three daughters and for each and every Californian.

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### Matt FONG

Republican



Protecting your tax money against waste and taking the lead to increase government efficiency and improve service to taxpayers will be my top priorities as your Treasurer. I have over 10 years of practical business and financial experience. I will invest taxpayer money wisely for maximum return and safety—to create new California jobs and generate the revenue needed for schools, law enforcement, transportation and other programs that benefit taxpayers. As Vice Chairman, State Board of Equalization, I have worked with California businesses to help create or keep thousands of California jobs. I will oppose new taxes. I will also continue my fight against wasteful government spending. On the Board of Equalization, I cut my office operating costs by over a million dollars a year and improved efficiency. Based on this success, I authored a comprehensive *Taxpayer Protection Plan* that will save taxpayers over \$2 billion a year—a plan I'll put into action as your Treasurer. Please call 1-800-MATT-FONG for a copy of my plan. I am a fourth generation Californian and graduate of the United States Air Force Academy. Paula and I have been married for 16 years and have two children—Matt and Jade.

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### Jon PETERSEN

Libertarian



I have been a manager, led volunteer organizations, developed financial systems for a major manufacturer, served on a city budget committee, and am treasurer of a large state-wide organization. I am ready to be California's next State Treasurer. I also have a vision to share with you. I want to ensure that government maintains respect for each individual while truly serving the public. The voters are in charge, and my first significant act as Treasurer will be to halt the shameless use of lease-revenue bonds for projects voted down by the people. Next up would be a major effort to repair California's credit rating (downgraded again in July). Leading by example, the Treasurer's Office would become a showplace for trimming government fat. Through natural attrition and competitive contracting, efficiency will go up while costs come down. When more can be accomplished at lower cost, budget trimming gets much easier, and that will get California back on track, leading the nation. That's the vision I wanted to share with you, and that's the vision I want to turn into reality for you. For more information, call 1-800-637-1776. Thank you for your vote.

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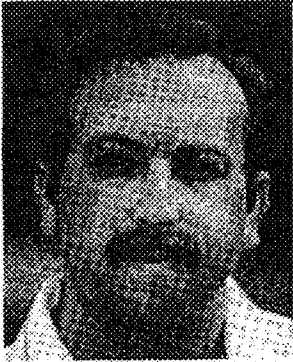
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TREASURER—Continued

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**Jan B. TUCKER**

**Peace and Freedom**



I demand Teacher Retirement System and U.C. sell all *UNOCAL* and *AMOCO* stock until blockade of Armenia ends. No state funds for Countrywide Mortgage until on-job sexual harassment ceases. Support *boycott* of Vons, Price Club-Costco, Disneyland because of practices ranging from employee sexual harassment to racial discrimination and union-busting. State bank with locally elected management needed to combat redlining of communities. Establish advisory board of feminists, unionists, environmentalists to review all California investments. As 15 year member of National Organization for Women I'm leading recall of Judge Schoenberg to protest leniency for wife-beaters and serve on CAL NOW Legal Fund Board. Membership in California Association Licensed Investigators; Armenian-American Action Committee, Save the Animals Fund, Newspaper Guild Local 69 (AFL-CIO), COYOTE, NRA, and other civic organizations. B.A. *cum laude* Cal State Northridge, 1978, Political Science and Chicano Studies. As Private Investigator, has combatted sexual harassment, union busting, racial discrimination, and police misconduct and testified before special L.A. County Grand Jury investigating District Attorney/Law Enforcement corruption. As longtime activist with Latino and other ethnic communities, I believe that State Treasury should assist immigrants and not assist persecution. Box 7304, N. Hollywood 91603 (818) 830-2824.

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## ATTORNEY GENERAL

- As the chief law officer, ensures that the laws of the state are uniformly and adequately enforced.
- Heads the Department of Justice, which is responsible for providing state legal services and support for local law enforcement.
- Acts as chief counsel in state litigation and serves as legal advisor to the Governor, Legislature, boards, commissions and agencies.
- Oversees law enforcement agencies, including District Attorneys and Sheriffs.



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### Tom UMBERG

Democratic

Crime in California is out of control. In the last five years *violent crime has increased 31.9%*. To stop this crime wave and protect lives of innocent Californians, we need a *new leader* in the war on crime—an Attorney General who will do more than just talk tough. We need an Attorney General who is tough, smart, who actually has law enforcement experience, and who can be effective. I have served as a Military Prosecutor, as a Federal Criminal Prosecutor, and as a member of California's State Legislature. I have fought crime on the front-lines, put criminals behind bars, and have written some of the toughest, smartest laws in California. I wrote the *Umberg "Three Strikes You're Out"* bill that specifically targets serious and violent offenders: As Attorney General, I will carry out the Death Penalty. Our most serious problem is *juvenile crime—up 53.7%* in the last five years. As Attorney General, I will make it my number one priority. I will fight for boot camps and community policing. I'll protect a woman's right to choose and California's precious environment. As a father of three, I want to make California's neighborhoods safer—now.

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### Robert J. EVANS

Peace and Freedom

For too long, the Attorney General has been seen as the State's chief prosecutor. The Attorney General must instead be the State's chief law enforcement officer. Honest "law enforcement" is first and foremost "Constitution enforcement." All California officeholders must take an oath of office to "support and defend the Constitution of the United States and the Constitution of the State of California." Attempts to weaken our right of privacy and our right to be secure against unreasonable searches and seizures violate this oath. Efforts to undermine the Constitutional rights of Californians are *not law enforcement*. Rather, they are *law destruction*. We must bring sanity to the field of criminal justice. Overkill measures such as the "Three Strikes" law (Proposition 184) do nothing to address the causes of crime and violence. My experience as a criminal defense lawyer shows that ever-increasing penalties do not reduce crime rates. To help prevent crime, the Attorney General must take the lead in fighting the poverty, hopelessness and injustice which breed crime. Support the candidate committed to preserving and defending the Bill of Rights. Vote for progress, not prisons. For more information, contact Evans for Attorney General, Box 30455, Oakland, CA 94604-6555 or phone (510) 238-4190.

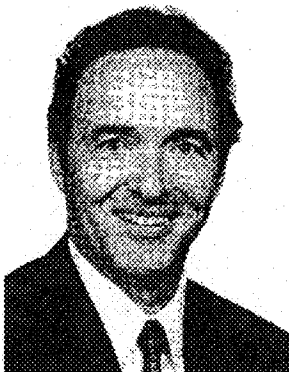
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### Dan LUNGREN

Republican

Ten years ago I fought against the liberal political establishment in Congress and passed the toughest federal crime bill in history. As California Attorney General, I have continued this fight. I directed my legal team in fighting anti-death penalty attorneys and in carrying out California's death penalty for the first time in 25 years. I protected the rights of victims against criminals by personally arguing and winning a landmark death penalty case before the United States Supreme Court. Under my leadership, California also has its most comprehensive plans ever to: *fight gangs; lock up drug dealers and shut down illegal drug labs; stop school violence; control the unregulated explosion of gambling; change the culture of violence in sports, entertainment and video games.* Society didn't fail criminals. Criminals have failed society. They should be held accountable. Rights of victims and law-abiding residents should come first. California needs an Attorney General who understands this and who has been there from the beginning—fighting for tougher laws, longer sentences and more cops long before it became fashionable. *That's where I have been and what I stand for. I want to keep on fighting for a safer California. Call (916) 448-9352.*



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## ATTORNEY GENERAL—Continued

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### **Richard BURNS**

#### **Libertarian**



California suffers from skyrocketing crime because violent felons are let out of prison while non-violent drug offenders stay locked up. As Attorney General, I will help end the government's War on Drugs and make drugs legal again. This will free prison space and cut crime in half, since drug dealers will stop terrorizing neighborhoods to protect their turf, and addicts will no longer have to steal to buy drugs. Alcohol prohibition didn't work in the 1920's, and drug prohibition doesn't work today. I strongly support the 2nd Amendment, and vigorously defend the right of Californians to keep and bear arms for self-defense. I strongly oppose civil asset forfeiture, especially for the purpose of financing police departments. This outrageous practice corrupts our police and subverts our democratic institutions. People have the right to make personal choices about jobs, lifestyles, abortion, health care and all their other activities, as long as their choices don't violate rights of others and they take full responsibility for their actions. Therefore, I will work to repeal such anti-liberty measures as motorcycle helmet mandates, "victimless crime" laws, and anti-job regulations. For more information, call 1-800-637-1776.

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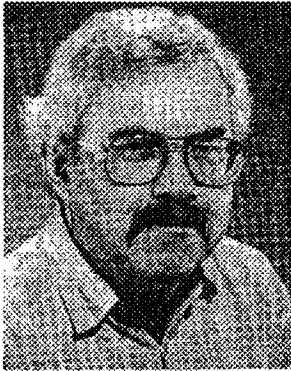
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## INSURANCE COMMISSIONER

- Oversees and directs all functions of the Department of Insurance.
  - Licenses, regulates and examines insurance companies.
  - Answers public questions and complaints regarding the insurance industry.
  - Enforces the laws of the California Insurance Code and adopts regulations to implement the laws.
- 

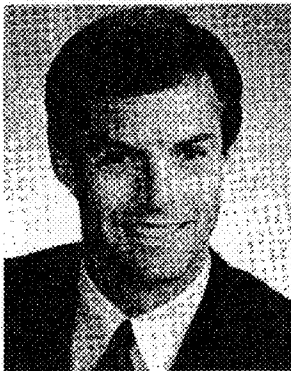
### Tom CONDIT Peace and Freedom



One of the main problems facing Americans is to reduce or eliminate the power of giant corporations like the insurance companies. I am running for Insurance Commissioner as part of a movement against corporate power and for democracy and equality. If elected, I will fight discrimination and red-lining in insurance, work to reduce insurance company bureaucracy and red tape, and end the practices by which companies try to avoid risk by dumping those who need help the most. But that's not enough. I'm also campaigning for Proposition 186, the California Health Security Act, which will eliminate private insurance companies in the health field. We need one universal health care system, not a maze of inadequate and contradictory plans. We also need a single state automobile liability insurance plan, covering every vehicle and every driver without insurance company overhead. We need to keep the promises we owe to each other as members of society—to heal the sick, to care for the aged, to educate the children. We must come together to build a new society based on cooperation and caring. Then we won't need parasites like the insurance companies. Contact me at 1638 Grant Street, Berkeley, California 94703.

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### Chuck QUACKENBUSH Republican



Insurance rates are too high. My first priority as Insurance Commissioner will be lower rates for all Californians. Economic recovery depends on making insurance affordable and available to California consumers, homeowners and small businesses. I oppose the single payer health initiative, a government takeover of California's health system. *It would double the state budget overnight and cost the average California family \$895 a year in new taxes.* Six years after voters approved Proposition 103, rebates remain unpaid. I'll sit down, face-to-face, with insurance companies to resolve this and get rebates to consumers within six months. Your premium dollar should protect you, not uninsured motorists and illegal aliens. I will impose stiff penalties on anyone driving without insurance. I'll protect consumers by intervening when claims are not paid, cracking down on unscrupulous insurers, and creating a Consumer Ombudsman to help you deal with the bureaucracy. I'll fight fraud with increased penalties and more investigators on the street. The Department of Insurance is a bloated bureaucracy where consumer complaints often never get a response and requests to *lower your rates have waited 13 months for approval.* As a businessman, I know how to streamline the Department and ensure accountability.

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### A. JACQUES American Independent



Since my retirement I've been active in politics and veteran issues. I'm a lifetime member of seven different veteran organizations and on many occasions, at different times, served on the governing boards. A veteran of two wars and a couple of skirmishes as a "professional marine." I find that I can no longer ignore the politics as usual method. Therefore, as a lifelong rebel, I can and will do the job the way it should be done; take no prisoners, no excuses and no capitulation. Californians demand no less. A California resident since 1950 and married since 1958. My education is not grandiose although I earned a degree in the arts and another in criminal justice. A lifelong student of the constitution and the law. Areas of expertise: I'm a criminologist, subliminologist and human behavior student. My goal is to bring about a prompt resolution to the insurance problems of fraud (both sides), unwarranted rising rates and costs, long delays in settlements and an end to rate increases to the "accident victims."

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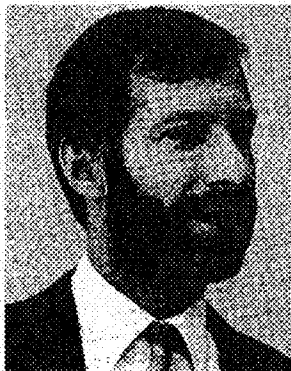
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## INSURANCE COMMISSIONER—Continued

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### Ted BROWN Libertarian



As a claims adjuster with 10 years insurance experience, I am the only candidate working daily with both insurance companies and policyholders. I strongly believe in the free market, where people make important decisions without government involvement. That's why I favor the complete deregulation of the insurance industry. There's no need for an Insurance Commissioner (especially an elected politician who uses the office to advance his career). I will work to repeal Proposition 103. Voters have no right to decide the prices charged by private companies, including auto insurers. Besides competition and deregulation, the surest way to lower rates is to crack down on insurance fraud. Californians are very concerned about health care. There is already too much government interference, not too little. The Clinton plan and California's "single payer" Proposition 136 violate our personal liberties, take away our health care choices and cost a fortune. The Libertarian alternative is "Project Healthy Choice," which includes Medical Savings Accounts (similar to IRA's); tax deductible health care costs; deregulation of the health care industry; replacement of the FDA with private sector drug certification; and privatization of Medicare and Medi-Cal. For a copy of this free-market plan and other information, call 1-800-637-1776.

### Art TORRES Democratic



As Insurance Commissioner, I will continue my fight for insurance reform and affordable health care for all Californians. I have declared an all out war on insurance fraud which increases our insurance rates by 25%. I have fought rate increases to keep insurance affordable for homeowners, drivers, and businesses. As chairman of the Senate Insurance Committee, I've been there for Californians who faced problems finding or collecting insurance. I worked with homeowners, patients, seniors and business for insurance reform and lower rates. I stopped insurance companies from cutting off coverage to terminally ill patients. I cracked down on con artists posing as insurers. My *Long Term Care Act* gave dignity to seniors. My *Homeowners' Bill of Rights* will ensure that insurance companies do not re-victimize policyholders who lose their homes to fires, earthquakes or floods. I'm the only major candidate in this race who doesn't accept *any* money from insurance companies. That's why I am endorsed by California teachers, firefighters, law enforcement, consumer and homeowner groups. They know I've been an independent watchdog for working Californians, and a crusader against crime. The insurance companies are spending big money to make sure you don't elect me. Don't let them win!

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The order of the candidates was determined by random alphabet drawing.

Statements on this page were supplied by the candidates and have not been checked for accuracy by any official agency.

## SUPERINTENDENT OF PUBLIC INSTRUCTION

- As chief spokesperson for public schools, provides education policy and direction to local school districts.
- Directs the Department of Education, executing the policies set by the State Board of Education.
- Serves as an ex-officio member of the governing boards of the state's higher education system.
- Works with the educational community to improve academic performance.

### Delaine EASTIN



*Teacher.* Taught government for seven years. *Businesswoman.* Manager in Fortune 500 company for seven years. *Legislator.* Chaired Assembly Education Committee for four years. *Education:* B.A., UC Davis; Master's degree, UC Santa Barbara. *Statement:* I believe we need to overhaul California schools. We need to get parents more involved in their children's schooling. We need tougher standards for beginning teachers, and then we need to give those teachers the tools and the respect they deserve. Finally, we need a reliable yardstick to measure results; reform means nothing if students don't learn more in the classroom. I will be a bureaucracy buster. I've written laws to streamline the education bureaucracy and cut red tape. I strengthened financial accountability to prevent school bankruptcies. As a result, I was twice voted "Education Legislator of the Year" by the California School Boards Association. To ensure economic competitiveness, we must provide a quality education to every child—those bound for college, and those headed for other great futures. I'm proud my supporters include: the California Teachers Association, the California Organization of Police and Sheriffs, the American Association of University Women. I have the experience, courage and creativity to fundamentally change our schools. I ask for your help.

### Maureen G. DiMARCO



We cannot afford schools that fail our children. California's schools must prepare every child for citizenship, the workplace and higher education. To do less is to fail them and ourselves. Safe schools, quality teachers, high standards, discipline, parental involvement and programs that serve all children must be the cornerstones of our schools. California's schools can no longer do "business as usual." It is time for *change* . . . it is time for *results*. We must act now: *Increase parental involvement and accountability; Mandatory expulsion and police reporting for drugs, guns, violence; Higher standards for the performance of teachers and students; Bring modern technology and up-to-date textbooks into the classroom; Cut Sacramento's bureaucratic stranglehold on schools and return control to the local communities.* I have over two decades of experience as a parent volunteer, classroom instructor, school board member, president of the state School Boards Association, and currently serve as California's first Cabinet Secretary of Child Development and Education. *We must not put our children's future into the hands of another Sacramento politician. We need to hold local schools accountable for getting the job done for our children. Please join me in getting politics out and putting solid education back in our schools!*

### Electoral Procedure for Justices of the Supreme Court and the Courts of Appeal

Under the California Constitution, justices of the Supreme Court and the courts of appeal are subject to confirmation by the voters. The public votes "yes" or "no" on whether to retain each justice.

These judicial offices are nonpartisan.

Before a person can become an appellate justice, the Governor must submit the candidate's name to the Judicial Nominees Evaluation Commission, made up of public members and lawyers. The commission conducts a thorough review of the candidate's background and qualifications, with community input, and then forwards its evaluation of the candidate to the Governor.

The Governor then officially nominates the candidate, whose qualifications are subject to public comment before examination and review by the Commission on Judicial Appointments. That commission consists of the Chief Justice of California, the Attorney General of California, and a senior Presiding Justice of the Courts of Appeal. The Commission on Judicial Appointments must then confirm or reject the nomination. Only if confirmed does the nominee become a justice.

Following confirmation, the justice is sworn into office and is subject to voter approval at the next gubernatorial election, and thereafter at the conclusion of each term.

The order of the candidates was determined by random alphabet drawing.

Statements on this page were supplied by the candidates and have not been checked for accuracy by any official agency.



# Political Party Statements of Purpose

## American Independent Party

The American Independent Party stands for government of the people, by the people and for the people. We reaffirm the principle of individual rights upon which our nation was founded; that all people have, inherent in their being an inalienable right to life, liberty and the pursuit of their own interests.

A primary function of the government is the safeguarding of these rights. History reveals however, that governments generally have failed in their obligations, becoming themselves the major violators of individual rights. Therefore, the American Independent Party is strongly committed to the principle that government's powers must be carefully divided and limited.

American Independent positions on the issues reflect the common sense thinking of the American people:

- Honest, representative Government!
- Tax relief for *all* Americans!
- Preservation of traditional values and respect for life!
- Safe streets and neighborhoods!
- A halt to illegal immigration!
- An end to Foreign aid—Let's take care of America first!
- Trade policies that are fair for American industry and American workers!
- Protection of rights and benefits for veterans and senior citizens!
- Preservation of rights guaranteed by the Second Amendment!

For further information call (909) 788-9045 or write to American Independent Party, P.O. Box 290, Riverside, California 92502.

## Libertarian Party

Whatever the problem, the Republican/Democrat "solutions" usually make things worse. They pass more laws (1,500 new ones in California!) but where is the improvement in your neighborhood? Your school? Your savings account?

The Libertarian Party has clear, principled, and practical solutions to today's problems, but they are often overlooked because they involve using LESS government, instead of spending MORE taxpayer money.

Libertarians want more personal responsibility and control, and less time-consuming government-mandated paperwork and its restraints. We stand for lean, limited government whose main responsibility ought to be protecting our

lives and property from criminals and trespassers—and to leave peaceful citizens alone!

We support the right of individuals to defend themselves and live in complete freedom, provided they do not violate the life, liberty, or property of others.

Since we favor financial responsibility, Libertarians question ALL government spending and borrowing. Thus, we oppose all taxes and public debt, like the bond propositions that appear every election. We seek free market solutions.

Please phone our toll-free inquiry lines, national (800) 682-1776 or state (800) 637-1776, for free information on our common sense approaches to health care, crime, education, poverty, the economy, and political corruption.

## Democratic Party

Republicans have controlled the Governor's office for 12 years. *Pete Wilson has been in office for 28 years.*

Yet, Wilson and the Republicans are blaming everyone but themselves for California's problems. California can not afford four more years of decline.

It is time for change! And Republican Michael Huffington, moving from Texas to run for Senate in California, is not the kind of change Democrats are advocating.

We can make California a great state again, but only with new leadership. Democrats are committed to:

- bringing businesses back to California and expanding job opportunities;
- making our educational system the best in the country once again;

- making our neighborhoods free from violence, crime and drugs;
- making sure our borders are protected (unlike the Republicans who did nothing for 12 years);
- making sure the air we breathe and the water we drink are as clean as possible.

Our Democratic candidates—led by Kathleen Brown for Governor and Dianne Feinstein for U.S. Senate—deserve your support. With their leadership, we will get to work rebuilding the California dream.

Thank you for voting the straight Democratic ticket. Contributions are needed—please make payable to the California Democratic Party, 911—20th Street, Sacramento, CA 95814 (not tax deductible).

## Peace and Freedom Party

The Peace and Freedom Party stands for democracy, ecology, feminism and socialism. We work for a world where cooperation replaces competition; where all people are well fed, clothed and housed; where all women and men have equal status; a world of freedom and peace where every community retains its cultural integrity and lives with others in harmony. Our vision includes:

- Self determination for all nations and peoples.
- Conversion from a military to a peace economy.
- Social ownership and democratic management of industry and natural resources.
- Full employment with a shorter work week.
- End homelessness; abolish vagrancy laws; provide decent affordable housing for all.

- Quality health care, education and transportation.
- Free birth control; abortion on demand; no forced sterilization.
- Restore and protect clean air, water, land and ecosystems; develop renewable energy.
- End discrimination based on race, sex, sexual orientation, age or disability.
- Democratic elections through proportional representation.
- Defend and extend the Bill of Rights; oppose the phony drug war; legalize marijuana; decriminalize and treat drug use.
- Abolish the death penalty and laws against victimless acts.
- Tax the rich to meet human needs.

Peace and Freedom Party, P.O. Box 2325, Aptos, California 95001.  
(408) 688-4268.

## Green Party

- Social Justice
- Decentralization
- Personal & Global Responsibility
- Respect for Diversity
- Post Patriarchal Values
- Non Violence
- Community-based Economics
- Ecological Wisdom
- Sustainable Future Focus
- Grassroots Democracy

These are the ten key values of the GPCA, which is part of a global network of Green Parties existing in 73 countries and across the U.S.

We're a new party which has arisen in response to the need for a new political vision. We recognize that all life is interconnected, and dependent upon the natural systems of our world. Politics must reflect this reality, and political structures and processes must be based upon this concept if humanity is to survive.

We stand for policy development in the following areas:

- Social justice based on honoring diversity, self-determination and self-definition of all people
- Ecological stewardship of the Earth through personal responsibility and the teaching and practicing of sustainable methods of living
- Government reform to implement a multiparty, proportional representation system and serious campaign reform
- Development of a new political culture of participation with the goal of direct democracy
- Community-based economics to bring vitality to regional areas by decentralizing ownership and control of the economy

CALL: voice mail (916) 448-3437

WRITE: GPCA, 1008 - 10th St., Box #482, Sacramento, CA 95814

## Republican Party

As our nation is on the brink of a new millennium, the Republican Party is dedicated to the improvement of our society by focusing on issues that demand immediate attention, including:

- **ILLEGAL IMMIGRATION**—We must stop the enormous burden illegal immigration puts on California's economy, schools, and hospitals.
- **CRIME**—Violent felons should be in jail, not on the street. In a lawful society victims deserve rights as well as criminals.
- **ECONOMY**—We believe in the free-enterprise system. Excessive regulations and high taxes kill businesses and drive the survivors out of California.

- **FOREIGN POLICY**—America must be prepared to defend freedom, yet we must not become embroiled unnecessarily in other nations' internal affairs.
- **GOVERNMENT SPENDING AND TAXES**—Republicans constantly strive to cut wasteful government spending. We believe that people can best choose how to use their own money, rather than having the government taxing them, then dictating how their money will be spent.
- **EQUAL OPPORTUNITY**—The Republican Party is dedicated to equality and fairness for all Americans, regardless of race, age, or gender.

The California Republican Party believes that the solutions to California's problems lie in the greatness of the people of California.



## **Passenger Rail and Clean Air Bond Act of 1994.**

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### **Official Title and Summary Prepared by the Attorney General**

#### **PASSENGER RAIL AND CLEAN AIR BOND ACT OF 1994.**

- This act provides for a bond issue of one billion dollars (\$1,000,000,000) to provide funds for acquisition of rights-of-way, capital expenditures, and acquisitions of rolling stock for intercity rail, commuter rail, and rail transit programs.
- Authorizes third of three bond issues of one billion dollars (\$1,000,000,000) each, provided for by Statutes of 1989, Chapter 108, to finance total of three billion dollars (\$3,000,000,000) for the long-range transportation plan. Voters approved the first issue in 1990, rejected the second issue in 1992.
- Appropriates money from state General Fund to pay off bonds.

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#### **Final Votes Cast by the Legislature on AB 973 (Proposition 181)**

Assembly: Ayes 68	Senate: Ayes 38
Noes 6	Noes 0

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## Analysis by the Legislative Analyst

### Background

The passenger rail transportation system in California includes intercity rail, commuter rail, and urban rail transit services.

- **Intercity rail** primarily serves business and recreational travelers between cities in California and other parts of the country. This service is typically operated by Amtrak and includes services such as the "San Diegos" from San Diego to Santa Barbara, the "San Joaquins" from Bakersfield to Oakland, and the "Capitols" from Sacramento to San Jose.
- **Commuter rail service** generally offers frequent service during commute hours. Service during other periods of the day is usually limited. The Peninsula Commuter Rail Service (Caltrain) from San Francisco to San Jose and the Metro Link service in Los Angeles are examples of this type of service.
- **Urban rail transit** provides regular service throughout the day, generally within an urban or metropolitan area. Examples of this service include the Sacramento Light Rail System, the San Diego Trolley, the San Francisco Bay Area Rapid Transit (BART) System, and the Los Angeles Metro Red and Blue Lines.

**Operating Costs.** Operating costs for these three types of rail service in California are paid for, in part, by passenger fare revenues. The remaining expenses are paid from various federal, local, and state sources. To receive state funds, state law requires rail operators to recover between 10 percent and 55 percent of operating costs from fare revenues. The percentage depends on the type of rail service.

**Capital Costs.** Capital costs for California's passenger rail services are also funded from various federal, local, and state sources. These costs include buying railroad rights-of-way and trains, and constructing rail tracks, maintenance facilities, and stations. Until 1990, state funding for these capital costs came from three sources: motor vehicle fuel ("gasoline") taxes, commercial vehicle ("truck") weight fees, and a portion of the state sales and use tax. In 1990, voters approved the use of general obligation bonds for rail capital outlay.

Local funding for rail capital costs comes primarily from local sales tax revenues. The amount of state and local funding for these purposes varies from year to year.

### Proposal

This measure allows the state to sell \$1 billion in general obligation bonds with maturity of up to 20 years, in order to provide funds for rail capital outlay. General obligation bonds are backed by the state, meaning that the state is required to pay the principal and interest costs on these bonds. General Fund revenues would be used to pay these costs. General Fund revenues come primarily from the state personal and corporate income taxes and sales taxes.

When appropriated by the Legislature, the bond money would be available for capital outlay projects for all three types of rail services. These projects must be located on eligible routes and corridors specified in the measure, or in locations specified by the Legislature in the future. The measure specifies six intercity rail corridors, 16 commuter rail corridors, and 12 urban rail transit routes. The measure requires the use of at least 15 percent—\$150 million—of the total bond funds for intercity rail in eligible corridors based on the relative size of the populations served by each corridor. The remaining funds would be distributed to commuter rail projects and urban rail transit projects in metropolitan areas.

### Fiscal Effects

This measure would result in the following fiscal effects:

- **Direct Costs of Paying Off the Bonds.** For these types of bonds, the state makes principal and interest payments from the state's General Fund over a period of about 20 years. If the \$1 billion in bonds were sold at an interest rate of 6 percent, the cost would be about \$1.6 billion to pay off both the principal (\$1 billion) and the interest (\$630 million). The average payment for principal and interest would be about \$81.5 million per year.
- **Future Rail Operating Costs.** Fare revenues typically cover only a portion of the operating costs of passenger rail services. Therefore, where these bond funds are used to expand passenger rail services, additional state and local operating funds would be necessary. These additional costs are unknown, but could potentially be in the tens of millions of dollars annually.

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For the text of Proposition 181 see page 63

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**Argument in Favor of Proposition 181**

A YES vote on Proposition 181 will:

- Expand rail service throughout California,
- Reduce traffic congestion,
- Improve air quality,
- Provide jobs for California workers,
- Help stimulate California's economy.

Proposition 181 is NOT a new tax increase.

Proposition 181 authorizes the sale of ONE BILLION DOLLARS in state bonds to improve and expand intercity rail, commuter rail and urban rail systems throughout the State of California.

Approximately \$150 million of Proposition 181 has been allocated to improve and expand California's intercity rail system. This includes services such as: the *Capitols* between Sacramento to San Jose, the *San Joaquins* between Sacramento, the San Francisco Bay Area and Bakersfield, and the *San Diegans* between Santa Barbara/San Luis Obispo, Los Angeles and San Diego.

The remaining \$850 million will be used in a dollar for dollar match with local funds to improve and expand urban and commuter rail programs, such as: the Los Angeles Metro, Bay Area Rapid Transit (BART), the San Diego Trolley, light rail systems in San Jose and Sacramento, Metrolink, CalTrain, and North San Diego County Commuter Service.

**IN TOTAL, PROPOSITION 181 REPRESENTS A \$1.85 BILLION INVESTMENT IN THE STATE'S TRANSPORTATION INFRASTRUCTURE.**

**RAIL IS A SUCCESSFUL AND NECESSARY TRANSPORTATION ALTERNATIVE.** Better rail transit systems will increase the number of people using rail. This means fewer cars on the road, less gridlock and cleaner air.

A YES vote on Proposition 181 will help decrease traffic congestion and will keep California's economy moving forward. The current and ongoing congestion on our State highways (over 300,000 vehicles per day on some roads) threatens to restrict the economic vitality of California's metropolitan areas, and disrupts the flow of goods to market from their point of manufacture or processing.

In the wake of the devastation caused by the January 17, 1994 Northridge Earthquake, Los Angeles was kept moving with the help and emergency expansion of commuter and intercity rail. As a result of the earthquake, the average daily ridership for the Santa Clarita Metrolink in the month of January, 1994 exceeded 7,300. In November of 1993, prior to the quake, the average daily ridership was under 850.

Rail transit is an integral part in California's Transportation Plan. Already in California, every day hundreds of thousands of people use rail transit to commute to work, school and other destinations. Proposition 181 will expand the benefits of rail transit to even more Californians.

A YES vote on Proposition 181 will create new jobs for Californians and will help lay the groundwork for continued economic growth.

A YES vote on Proposition 181 represents an INVESTMENT in California's future. This includes a healthy and active transportation infrastructure, jobs for Californians, and cleaner air.

**SENATOR QUENTIN L. KOPP**  
*Chairman, Senate Transportation Committee*

**DEAN R. DUNPHY**  
*Secretary for Business, Transportation, and Housing Agency*

**Rebuttal to Argument in Favor of Proposition 181**

The proponents of this spend-now-pay-later boondoggle would like you to believe that this measure will cost you only one billion dollars. That's NOT TRUE.

By the time California taxpayers finish paying off the one billion dollars for MORE EMPTY SEATS on MORE UNNEEDED RAIL PROJECTS, they will have to pay HUNDREDS OF MILLIONS MORE IN INTEREST PAYMENTS.

And where is that money supposed to come from?

In spite of all the tax increases, state government continues to spend more than it collects. The Legislature just borrowed another \$7 BILLION to pay the bills and keep the lights on.

Don't the politicians understand? WHEN YOU'RE IN A HOLE, IT'S TIME TO STOP DIGGING!

A short five years ago, when Assemblyman Jim Costa sponsored legislation to put this rail bond measure (and \$2 billion more) on the ballot, our credit rating was a perfect AAA. Irresponsible spending and borrowing have given California the SECOND WORST CREDIT RATING OF ANY STATE IN THE NATION!

This measure is so bad for California that, last summer, Assemblyman Costa tried to have it removed from the November ballot.

Fed up voters said NO to the Costa rail bonds in 1992. They need to say NO again. NO to unnecessary spending. NO to irresponsible borrowing. NO to red ink. NO to Proposition 181.

**PHIL WYMAN**  
*State Senator, 16th District*

**TOM McCLINTOCK**  
*Taxpayer Advocate*

**Argument Against Proposition 181**

This is the third attempt to use the Costa Rail and Transportation Improvement Act to raise \$1 billion for rail projects. The last attempt, appearing on the ballot as Proposition 156, was rejected by voters in 1992. Californians would be well served to reject the bonds again.

This bond measure is such a bad idea that the measure's author, Assemblyman Jim Costa, recently attempted to remove the measure from the November ballot.

Taxpayers are being asked to continue financing new rail projects that will be utilized by a relatively small portion of the population and which are not currently filled. The simple fact of the matter is that ridership has not caught up with capacity. We shouldn't spend money we don't have for projects that are not currently needed.

To make matters worse, most of these rail projects must be operated with sizeable government subsidies. Meantime, California's highways are pocked with potholes, earthquake-damaged bridges are still in need of repair, and highways need retrofitting to ensure seismic safety.

Approving these bonds would only further distort California's transportation infrastructure priorities from what is truly important.

There is a compelling fiscal reason for rejecting these bonds, as well. At a time when California is close to buckling under the weight of debt, it is irresponsible for the Legislature to place this bond measure on the ballot and ask Californians to reach into their pockets once again.

California, awash in red ink, is hardly in a position to add new debt to its ledgers. Presently, California's bond rating is one of the poorest in the country. Last year, Standard and Poors warned investors that California now carries a proportionately larger short-term debt than New York City did when it teetered on the edge of bankruptcy in the late 1970's.

In fact, the Legislature recently had to beg international bankers for \$7-10 billion worth of credit—all because the state was literally out of money!

Our state cannot borrow its way to prosperity. Adding to our debt only delays the day that California's economy will be healthy and vibrant once again. In the 1960's, when California's super freeways were being built, the tax load on every Californian was proportionately less than it is today. If we did it three decades ago, we should expect no less now.

Choked by waste and mismanagement, government is no longer providing as much service as it used to—even with more resources. For this reason, voters should reject Proposition 181 and tell the Legislature once again, as they did last June, that California's debt is too large. California families are making do with what they have available to them—government should do the same.

We don't need it and we can't afford it. No more red ink! No on Proposition 181.

**PHIL WYMAN**  
*State Senator, 16th District*  
**TOM McCLINTOCK**  
*Taxpayer Advocate*

**Rebuttal to Argument Against Proposition 181**

Proposition 181 was placed on the ballot by an act of the Legislature and reaffirmed by a vote of the people when they approved Proposition 108 the Passenger Rail and Clean Air Bond Act of 1990.

Proposition 181 does NOT increase taxes.

Proposition 181 will NOT take funding away from other State transportation projects.

YES on Proposition 181 WILL improve and extend rail services throughout the State, where they are needed most.

Proposition 181 is an INVESTMENT in the State's infrastructure. A YES on Proposition 181 will help finish the rail transit improvement projects approved by California's voters in 1990.

Better rail transit will increase the number of Californians using rail service while reducing the number of cars on the freeways. FEWER CARS ON THE ROAD MEANS LESS GRIDLOCK AND CLEANER AIR.

Proposition 181 includes funding for urban, commuter and intercity rail projects that will be extended, improved or constructed throughout the Golden State.

RAIL IS A SUCCESSFUL AND NECESSARY TRANSPORTATION ALTERNATIVE.

Everyday, thousands of Californians travel to work, to school and to visit family and friends by way of rail transit. Proposition 181 will extend these benefits to even more Californians.

Proposition 181 will create valuable jobs for Californians and will stimulate the State's economy. The current and on-going congestion on our State highways threatens to restrict the economic vitality of California's metropolitan areas, and disrupts the flow of goods to market.

**REDUCE AIR POLLUTION AND REDUCE TRAFFIC ON CALIFORNIA'S OVERCROWDED STREETS AND FREEWAYS.**

**VOTE YES ON PROPOSITION 181.**

**DEAN R. DUNPHY**  
*Secretary for Business, Transportation, and Housing Agency*  
**MARIAN BERGESON**  
*State Senator, 35th District*  
**JAMES M. STROCK**  
*Secretary for California Environmental Protection Agency (Cal/EPA)*

**PROPOSITION 182 WAS REMOVED BY LAW**



**Recall Elections. State Officers.  
Legislative Constitutional Amendment.**

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**Official Title and Summary Prepared by the Attorney General**

**RECALL ELECTIONS. STATE OFFICERS.  
LEGISLATIVE CONSTITUTIONAL AMENDMENT.**

- Authorizes a recall election to be held within 180 days of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring in the same jurisdiction.
- Current law provides that recall elections must be held between 60 and 80 days of the date of certification of sufficient signatures.

**Summary of Legislative Analyst's  
Estimate of Net State and Local Government Fiscal Impact:**

- Potentially significant savings to state and local governments.

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**Final Votes Cast by the Legislature on SCA 38 (Proposition 183)**

Assembly: Ayes 62      Senate: Ayes 32  
              Noes 9               Noes 2

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## Analysis by the Legislative Analyst

### Background

The California Constitution allows voters to recall elected state officers. These include officials elected statewide, such as the Governor, as well as Members of the Legislature, Members of the Board of Equalization, and judges. To recall a state officer, proponents must submit to the Secretary of State signed petitions calling for a recall election. If the petitions are determined to contain enough valid signatures, the Secretary of State informs the Governor, who must call a special election to be held not less than 60 days nor more than 80 days from the date of certification. In contrast, current law allows the Governor to call a special election to fill a vacancy in a legislative office within 180 days of the call, in order that the special election may be consolidated with a regularly scheduled election.

According to the Secretary of State, only four state recall elections have been held since 1913—two in 1913, one in 1914, and one in 1994. However, there have been 107 recall attempts since 1913. Moreover, the number of

attempts has increased in recent years, with 55 recalls attempted since 1986.

### Proposal

This constitutional amendment would, in certain circumstances, permit a recall election to be conducted within 180 days (rather than 60 to 80 days) of the date of certification, in order that the election may be consolidated with the next regularly scheduled election occurring in the same jurisdiction. Thus, the measure could reduce the number of recall elections held on dates other than regular election dates.

### Fiscal Effect

By allowing recall elections to be consolidated with regularly scheduled elections, this measure could result in savings to the state and local governments (especially to counties). The magnitude of the savings could be significant, depending on the number of recall elections and the size of the jurisdiction in which the recall election is held.

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**For the text of Proposition 183 see page 64**

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### Argument in Favor of Proposition 183

California remains in the midst of one of the worst economic crises since the Great Depression. Earthquakes and wildfires have ravaged the state unmercifully. Military base closures have stunned our communities.

In the wake of these relentless disasters, our cities and counties have been scrambling for ways to maintain minimum funding for essential services like police and fire protection, education, and health care.

Yet on April 12, 1994, Los Angeles County was forced to spend nearly *one million dollars* on a special recall election even though the regular June primary election was less than two months away.

Why couldn't the county save virtually all that money by holding the recall election on the same day as the statewide primary? Because an obscure provision of the state constitution wouldn't allow it.

Currently, the Governor must schedule recall elections for state officers between 60 and 80 days after the recall petitions are certified. This restriction allows little or no opportunity to combine the recall with an existing election. Little or no opportunity to save money. Little or no opportunity to guarantee better voter participation.

Proposition 183 will give the Governor more flexibility to schedule a recall, but *only* if it can be combined with an existing election already being held in the same area.

The people's democratic right to recall elected officials is precious. But to be truly democratic, recall elections

generally should be scheduled as part of regular elections, when voter turnout is high—not in special elections with nothing else on the ballot, when turnout can drop below ten percent of eligible voters.

Under current law, proponents can manipulate the timing of the recall in order to guarantee that it *cannot* be combined with a regular election. These special interests may be counting on a low turnout to help their cause.

Under Proposition 183, the Governor still would be free to schedule a recall election earlier if necessary. Quick, special recall elections could still be called in cases of widely acknowledged wrongdoing. Delaying in such cases would subject the Governor to intense and well-deserved criticism.

Proposition 183 will simply allow recall elections to be scheduled in both a timely and fiscally responsible manner.

**VOTE TO SAVE TAXPAYERS' DOLLARS.  
VOTE TO INCREASE VOTER PARTICIPATION.  
VOTE "YES" ON PROPOSITION 183.**

**MILTON MARKS**  
*State Senator, 3rd District*

**TONY MILLER**  
*Acting Secretary of State*

**MARLYS ROBERTSON**  
*President, League of Women Voters of California*

### Rebuttal to Argument in Favor of Proposition 183

Recall is your constitutional RIGHT to immediately remove elected officers before their terms expire. Recalling a dishonest politician SAVES TAX DOLLARS and cuts off greedy special interests.

Proponents of Proposition 183 argue that recall elections should be lumped in with the next general election.

But that contradicts the reason why our founders wrote recall powers into our Constitution.

They understood that corrupt politicians could very quickly use their powers to run up huge debts that are ultimately passed on to taxpayers for payment.

Members of the State Legislature, for example, cast hundreds of votes every day for or against increases in taxes, fees, fines, penalties, regulations, and restrictions. At this rate, it can take only a few minutes for an elected official to spend millions of your tax dollars.

Proposition 183 would allow the IRRESPONSIBLE POLITICIAN TO AVOID A RECALL and remain in office where he or she could continue to run up huge tax bills.

How much money will Proposition 183 save, anyway? Since 1911, California has had only four recalls. That's one recall every 21 years! Considering how rare recalls are, is it worth giving up your constitutional right to oust an errant official before they do serious damage to society as a whole?

Certainly our elected representatives can find better ways to save money other than restricting your constitutional voting rights.

Protect your right as a voter. Don't be confused by self serving arguments which protect corrupt officials. Please **VOTE NO ON PROPOSITION 183.**

**DAVID KNOWLES**  
*Assemblyman, 4th District*

**MICKEY CONROY**  
*Assemblyman, 71st District*

**DEAN ANDAL**  
*Assemblyman, 17th District*



## Recall Elections. State Officers. Legislative Constitutional Amendment.

# 183

### Argument Against Proposition 183

Recall elections are one of the strongest tools available to California voters to make government respond. In 1911, progressive reformers led by Governor Hiram Johnson created a direct method for the people of California to make laws, change laws, and remove elected officials through the use of the initiative, the referendum, and the recall.

Since then, the initiative has been the most common method used by California voters to directly improve their lives without having to depend on action by legislative bodies or the Governor. Successful initiatives include Proposition 13, the property tax limitation initiative, and Proposition 140, the term limits initiative.

Though little used, the recall election is a powerful weapon available to the citizens who are dissatisfied with elected officials who abuse their power, particularly their ability to levy taxes. Recall elections are born out of an urgency to seek IMMEDIATE CHANGE in the direction of government.

The purpose of a recall election is to make an immediate change in who we elect to represent our interests. As written, Proposition 183 could delay recall elections by up to six months after recall signatures have been certified. This would deny voters their constitutional right to directly choose their representatives in a timely manner.

Proposition 183 was placed on the ballot by the Legislature to protect legislators from the voters. In fact, this measure is a direct result of an attempted recall of a State Legislator earlier this year.

Proposition 183 will also create confusion at the polls by preventing voters from exercising their right to recall a state official, when that official is also seeking re-election to the same office that he or she is being recalled from.

For example, if a recall for a state official was consolidated with the primary election that state official could be recalled, while at the same time receiving their party's nomination. Similarly a state official could also be recalled and re-elected at the same time in a general election.

Proponents will argue that combining elections will save money. But at what cost to the taxpayer who will have to endure six more months of bad governance by unresponsive or corrupt officials?

Protect your right as a voter. Don't be confused by self serving arguments. Vote No on Proposition 183.

**DAVID KNOWLES**  
*Assemblyman, 4th District*

**MICKEY CONROY**  
*Assemblyman, 71st District*

### Rebuttal to Argument Against Proposition 183

Opponents would have you believe that the constitutional right to recall state officials is somehow threatened by Proposition 183. Nothing could be further from the truth.

Proposition 183 not only preserves the citizens' right to remove elected officials from office, but actually improves it. Allowing a recall election to be consolidated with a regularly scheduled election improves the recall process in two ways.

First, it will increase voter turnout. Current laws governing recall elections virtually guarantee a special election. Special elections routinely have very, very small turnouts. Consolidation insures that the greatest number of voters have the opportunity to be heard—simply stated, the more people voting, the healthier the democratic process.

Second, it will avoid costly single issue elections that needlessly waste money. Proposition 183 allows for a

delay of no more than 4 months in scheduling a recall election. This could potentially save millions of dollars in state funds by avoiding the cost of special elections. Why should the taxpayers have to foot the bill for two separate elections which may only be a few weeks apart? Why should the voters have to make two trips to the polls when they really only need to go once?

Proposition 183 saves money and makes voting easier—that's why the League of Women Voters of California is supporting it—so should you.

Vote "YES" on Proposition 183.

**MILTON MARKS**  
*State Senator, 3rd District*

**TONY MILLER**  
*Acting Secretary of State*

**MARLYS ROBERTSON**  
*President, League of Women Voters of California*



## **Increased Sentences. Repeat Offenders. Initiative Statute.**

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### **Official Title and Summary Prepared by the Attorney General**

#### **INCREASED SENTENCES. REPEAT OFFENDERS. INITIATIVE STATUTE.**

- Increases sentences for defendants convicted of any felony who have prior convictions for violent or serious felonies such as rape, robbery or burglary.
- Convicted felons with one such prior conviction would receive twice the normal sentence for the new offense. Convicted felons with two or more such prior convictions would receive a life sentence with a minimum term three times the normal sentence or 25 years, whichever is greater.
- Includes as prior convictions certain felonies committed by juveniles 16 years of age, or older.
- Reduces sentence reduction credit which may be earned by these convicted felons.

#### **Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- Provisions of this measure are identical to a law that was enacted in March 1994. That law will (1) increase state prison operating costs by hundreds of millions of dollars annually, reaching about \$3 billion in 2003 and about \$6 billion annually by 2026; (2) increase state prison construction costs by about \$20 billion; (3) have an unknown net fiscal effect on local governments; and (4) possibly result in other savings of unknown magnitude to state and local governments to the extent prison sentences prevent offenders from committing additional crimes for which government would have incurred costs.
  - Because this measure reaffirms the March 1994 changes, it would have no direct fiscal impact on state and local governments.
-

## Analysis by the Legislative Analyst

### Background

There are three kinds of crimes: felonies, misdemeanors, and infractions. A felony is the most serious type of crime. About 21 percent of persons convicted of a felony are sent to state prison. The rest are supervised on probation in the community, sentenced to county jail, or both.

Existing law classifies some felonies as "violent" or "serious," or both. Currently, felonies defined as "violent" include murder, robbery of a residence in which a deadly or dangerous weapon is used, and rape and other sex offenses. Felonies defined as "serious" include the same offenses defined as "violent" felonies, but also include other offenses such as burglary of a residence and assault with intent to commit a robbery or rape. Other felonies are classified as neither violent nor serious.

A person who has been previously convicted of a felony, and who is convicted of another felony, may be sentenced to a longer term in state prison (generally as much as five additional years) for each previous felony conviction. Also, if a person commits multiple felonies, he or she generally receives the full prison sentence for the most serious crime (the "primary offense"), and lesser, back-to-back sentences for the remaining crimes (the "secondary offenses").

Felons who are sentenced to state prison may earn "credits" if they participate in a work assignment, or an education and training program. These credits reduce the amount of time individuals spend in state prison by up to one-half. An offender also may receive credits for any time he or she spent in county jail before going to state prison.

As of July 1, 1994, there were about 124,000 inmates in state prisons. The state costs to operate the state prison system in 1994-95 will be about \$3 billion.

### Proposal

This measure proposes amendments to state law that are identical to a law enacted by the Legislature and signed by the Governor in March 1994. Consequently, adoption or rejection of this initiative will have no direct impact on existing law because the measure reaffirms provisions of the law that are already in effect.

Both the provisions of this measure and the law that was enacted in March 1994 require substantially longer prison sentences for certain repeat offenders. The primary provisions are discussed below.

#### **Increase Prison Sentences for Repeat Offenders.**

Both measures require that a person who is convicted of a felony and who has been previously convicted of one or more violent or serious felonies, be sentenced as follows:

- If the person has *one previous* serious or violent felony conviction, the mandatory sentence for *any new* felony conviction (not just a serious or violent felony) is *twice* the term otherwise required under law for the new conviction. Each new prison sentence must be served back-to-back.
- If the person has *two or more previous* serious or violent felony convictions, the mandatory sentence

for *any new* felony conviction (not just a serious or violent felony) is life imprisonment with the minimum term being the *greater* of (1) three times the term otherwise required under law for the new felony conviction, (2) 25 years, or (3) the term determined by the court for the new conviction.

#### **Count Previous Convictions While as a Minor.**

Both measures also require that specified crimes committed by a minor, who was at least age 16 at the time of the crime, count as a previous conviction. These specified crimes generally include the same crimes defined as serious and violent felonies. Prior to March 1994, crimes committed by minors and dealt with by the juvenile court did not count as previous felony convictions.

#### **Restrict Credits That Reduce Time Spent in Prison.**

Both measures require that a person who has been convicted previously of one or more serious or violent felonies may not earn credits to reduce the time he or she spends in prison for the new offense, by more than one-fifth (rather than the previous maximum of one-half), and may not receive any credits for any time spent in county jail before going to state prison.

#### **Eliminate Alternatives to Prison Incarceration.**

Both measures require that a person who is convicted of any felony (not just a serious or violent felony) and who has been previously convicted of a serious or violent felony will be sentenced to state prison. Thus, a court cannot grant the person probation or place the person in an alternative program, such as a drug treatment program.

Figure 1 illustrates how sentencing under the law that became effective in March 1994, and would be reaffirmed by the adoption of this measure, differs from the prior law. As the figure shows, the sentence for a person who has no prior felony convictions and who is subsequently convicted of a felony (whether serious, violent, or otherwise) is the same under the previous law, the law that was enacted in March 1994, and this measure.

Figure 1 also shows that the sentence for a repeat offender who has prior serious or violent felony convictions is substantially increased under the law enacted in March 1994 and that is reaffirmed by this measure. For example, under the prior law, a person convicted of burglary of a residence and who was previously convicted of the same crime would have received a prison sentence of four years with five years added for the prior offense, for a total of nine years. If the person earned maximum credits for participating in work and education programs, the person's time in prison would be reduced by half, for a total net time to serve in prison of 4.5 years (as shown in the figure). Under the current law and as reaffirmed by this measure, the person would receive a prison sentence of eight years (twice the sentence under the previous law), with five years added for the previous conviction, for a total of 13 years. If the person earned the maximum credits, the person's time in prison would be reduced by 20 percent, for a total net time to serve of 10.4 years.

Figure 1

**Illustrations of Changes in Prison Sentencing Law  
Prior Law Versus Current Law as Reaffirmed by This Measure**

Type of Crime	Offender History		Time to Serve in Prison <sup>a</sup>	
	New Offense	Prior Offense <sup>b</sup>	Prior Law (prior to March 1994)	Current Law (since March 1994 and reaffirmed by this measure)
Any felony with No prior felony	Burglary of a residence	None	2 years	Same
Serious/violent felony with One prior serious/violent felony	Burglary of a residence	One prior burglary of a residence	4.5 years	10.4 years
Nonviolent/nonserious felony with Two prior serious/violent felonies	Receiving stolen property	One prior assault on a peace officer, and one prior burglary of a residence	2 years	Life sentence of at least 25 years
Serious/violent felony with Two prior serious/violent felonies	Robbery	One prior burglary of a residence, and one prior robbery	7 years	Life sentence of at least 25 years

<sup>a</sup> Assumes the offender (1) receives the typical prison sentence for the new offense, (2) receives additional prison sentences for prior offenses, and (3) earns maximum credits from participation in work/education programs.

<sup>b</sup> Assumes prior offense resulted in a prison sentence.

**Fiscal Effect**

This measure reaffirms the prison sentencing changes previously enacted by the Legislature and the Governor. Those previously-enacted changes are likely to result in the major fiscal effects that are discussed below. Because the provisions of this measure are identical to the law that was enacted in March 1994, this measure by itself will have no direct fiscal impact on state or local governments.

**State Prison Operating Costs.** The state's prison population will increase substantially because the previously enacted changes (1) significantly increase prison sentences, (2) limit the ability of repeat offenders to earn credits to reduce the time they spend in prison, and (3) require more persons who otherwise could have been granted probation or sentenced to county jail to be sentenced to state prison.

Based on information provided by the Department of Corrections, these changes will result in additional state operating costs of about \$200 million in 1995-96, and will grow by several hundred million dollars each year

until the full impact is realized in about 32 years. By the year 2003, the additional costs will reach about \$3 billion, and will grow to about \$6 billion annually by the year 2026. These amounts assume that the changes will add about 270,000 more inmates to the state's prison population than would have otherwise occurred.

**State Prison Construction Costs.** The Department of Corrections estimates that it will incur one-time costs of about \$20 billion over the next 32 years to construct the new facilities to house the projected increase in the prison population.

**Fiscal Impact on Local Governments.** Local governments (particularly counties) will experience some savings because some persons will be shifted to state prison who would have otherwise been kept in county jail or supervised in the community by county probation departments. In addition, because some offenders will serve much longer sentences in state prison, thus limiting their ability to commit additional crimes, local governments will save money that they would have otherwise spent for investigations, arrests, prosecutions, trials, and supervision of offenders.

These savings would be offset to an unknown extent by additional costs to local governments for more and longer trials. This is because some offenders who would previously have pleaded guilty to crimes may be more likely to fight the charges against them since a conviction will result in a substantially longer prison sentence.

Because of uncertainties regarding the likely behavioral changes of offenders, the net fiscal effect on local governments is unknown.

***Other Impacts on State and Local Governments.*** Finally, both measures could result in savings to the noncriminal justice components of state and local governments. These savings would occur to the extent that longer prison sentences prevent offenders from committing additional crimes, which if the crimes had occurred, would have resulted in costs to the state and local governments (for example, government-paid medical costs for persons without insurance who are injured during a crime). The magnitude of these savings is unknown.

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**For the text of Proposition 184 see page 64**

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## Argument in Favor of Proposition 184

On June 29, 1992, 18 year old Kimber Reynolds was leaving a Fresno restaurant when two men on a stolen motorcycle tried to steal her purse. When Kimber resisted, her assailant, without warning, produced a .357 magnum and shot her point blank in the head. She died 26 hours later with family at her bedside.

Mike Reynolds, Kimber's father, vowed to spare others from the senseless tragedy that killed his daughter. Thus began 3 Strikes and You're Out.

3 Strikes keeps career criminals, who rape women, molest innocent children and commit murder, behind bars where they belong.

Here's how it works:

**Strike One:** One serious/violent felony serves as a first strike toward a stiffer prison term.

**Strike Two:** A second felony conviction, with one prior serious/violent felony, **DOUBLES** the base sentence for the conviction. Any additional enhancements under existing law, including those for prior convictions, are then added.

No probation.

**Strike Three:** A third felony conviction, with two serious/violent prior felonies, **TRIPLES** the base sentence or imposes 25 years to life, whichever is greater.

No probation.

A "truth in sentencing" provision requires felons to serve at least 80% of their terms for second and third strike convictions. Harsher punishments like the death penalty still apply.

Convictions before 1994, including the murder charge for which one of Kimber's killers is serving just nine years, are counted as strikes. Felonies committed outside California, or by juveniles, are counted as strikes. Prosecutors have discretion, with court approval, to dismiss a prior strike in the interest of justice.

The threat of our initiative forced Sacramento politicians to pass 3 Strikes. Now, they're trying to weaken it. Our vote for Proposition 184 will strengthen the law and tell politicians, "hands off 3 Strikes."

In addition to saving lives, California taxpayers will no longer have to pay the outrageous costs of running career criminals through the judicial system's revolving door over and over again.

## 3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS!

According to the Office of Planning and Research, 3 STRIKES SAVES \$23 BILLION over five years.

Every repeat felon returned to our streets costs nearly \$200,000 annually in direct losses to victims and the enormous expense of running the same criminals through the police stations, courts, and prisons time and again.

## 3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS!

Proposition 184 is supported by:

- Parents of Murdered Children
- California Correctional Peace Officers Association
- National Tax Limitation Committee
- Women Prosecutors of California
- California Police Chiefs' Association
- Crime Victims United
- Center for the California Taxpayer
- California Peace Officers' Association
- Doris Tate Crime Victims Bureau
- Paul Gann Citizens Committee
- California State Sheriffs' Association
- Committee to Protect the Family
- Americans for Tax Reform
- Peace Officers Research Association of California
- Justice for Murder Victims
- California Narcotic Officers' Association
- Memory of Victims Everywhere
- National Victim Center

3 Strikes is supported by police chiefs, sheriffs, district attorneys, victims' organizations, and taxpayer groups throughout California.

Why do they all say "YES" ON 184?

Because 3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS!

**MIKE REYNOLDS**

*Board Member, Crime Victims United*

**JAN SCULLY**

*Director of Policy, Women Prosecutors of California*

**MIKE HUFFINGTON**

*Co-Chair, 3 Strikes and You're Out*

## Rebuttal to Argument in Favor of Proposition 184

**DON'T BE FOOLED!!**

**FACT: PROPOSITION 184 WILL COST TAXPAYERS BILLIONS ANNUALLY.**

The "savings" claimed by the proponents are false. Their numbers have been totally discredited by researchers at the Rand Corporation and the University of California. The California Department of Corrections estimates that Proposition 184 will quickly cost billions per year—significantly more than the current cost for all of higher education.

**LOCAL SCHOOLS, COLLEGES, HOSPITALS, POLICE AND FIRE DEPARTMENTS WILL BE CRIPPLED BY THE HUGE COST OF PROPOSITION 184.**

**FACT: PROPOSITION 184 LUMPS IN NONVIOLENT OFFENDERS WITH VIOLENT CRIMINALS.**

The Los Angeles District Attorney's Office says that three out of four who get life sentences under Proposition 184 will be nonviolent offenders—at a cost of \$48 billion over 20 years for L.A.'s prisoners alone.

**FACT: MANY LAW ENFORCEMENT OFFICIALS OPPOSE PROPOSITION 184.**

District attorneys and police across the state have repeatedly criticized this initiative because it will fill our prisons with aging, nonviolent offenders.

**FACT: CRIME VICTIMS OPPOSE PROPOSITION 184.**

The Klaas family, whose little girl's violent death spurred on "three strikes", opposes Proposition 184 as the wrong approach to violent crime. Recently, a San Francisco grandmother refused to prosecute a car break-in because the perpetrator would have gotten life.

**FACT: PROPOSITION 184 DOES NOT CHANGE THE LAW.**

This measure is identical to three strikes legislation already signed into law. Don't endorse a bad and unworkable law. *Tell the legislature to correct this badly flawed and overpriced law.*  
**VOTE NO ON PROPOSITION 184.**

**JAMES FOX**

*District Attorney, San Mateo County*

**MARLYS ROBERTSON**

*President, League of Women Voters of California*

**MARC KLAAS**

*Member of the Board of Directors,  
Polly Klaas Foundation*

Argument Against Proposition 184

Californians are sick and tired of the violence and misery caused by people who go to prison for violent crimes, only to be released to strike again. We need strong laws that keep these repeat, violent offenders in prison for life if necessary.

BUT PROPOSITION 184 IS THE WRONG LAW. IF IT PASSES, OUR PRISON SYSTEM WILL BE BLOATED WITH NON-VIOLENT OFFENDERS SERVING LIFE TERMS.

Here are some of the problems with Proposition 184:

- The third strike does not have to be violent or serious—it can be any felony at all. A 50-year-old man who twice stole a bicycle from a garage as a teenager, and who now writes a bad check, will get a life sentence under Proposition 184.
• This Proposition arises from the tragic kidnap and killing of Polly Klaas. But even the Polly Klaas family opposes Proposition 184, because it treats non-violent crimes the same as murder, rape or armed robbery.
• Because so many people will be drawn into the Proposition 184 net, taxpayer costs for prisons will soar. The Department of Corrections estimates that this law will cost taxpayers \$21 billion to build new prisons, and quickly cost billions each year to run them.

WHERE WILL THE BILLIONS OF DOLLARS COME FROM TO KEEP ALL THESE NON-VIOLENT OFFENDERS IN PRISON FOR LIFE? The state will have to INCREASE

OUR TAXES or SEVERELY CUT ESSENTIAL SERVICES such as:

- Police and fire services
• Education for our children, our hope for the future
• Medical care for seniors and children
• Creating and preserving our parks and open spaces

The politicians are refusing to give voters a choice. We need a repeat offender law that targets violent criminals—not one that sweeps HUNDREDS OF THOUSANDS OF NON-VIOLENT OFFENDERS INTO LIFE PRISON TERMS.

Don't sign a blank check for a bad law. Send a message to the politicians. Tell them to do their job by passing a law that targets repeat, violent criminals—not a grandstanding law that fills our prisons with aging non-violent offenders.

THIS THREE STRIKES MEASURE IS A SLOGAN, NOT A SOLUTION. VOTE NO ON PROPOSITION 184.

MARC KLAAS

Member of the Board of Directors, Polly Klaas Foundation

TERRENCE STARR

President, California Probation, Parole and Correctional Association

MARY BERGAN

President, California Federation of Teachers

Rebuttal to the Argument Against Proposition 184

815,000 California voters signed petitions to place 3 Strikes and You're Out on the ballot. We did it because soft-on-crime judges, politicians, defense lawyers and probation officers care more about violent felons than they do victims. They spend all of their time looking for loopholes to get rapists, child molesters and murderers out on probation, early parole, or off the hook altogether. Well, this time it's victims first!

Opponents of 3 Strikes and You're Out will say anything to keep criminals out of jail. But, their false accusations won't work.

Here is what they would like you to believe:

CLAIM

"Our prison system will be bloated with non-violent offenders."

FACT

NOT TRUE: 3 Strikes targets only career criminals—those with a history of committing SERIOUS/VIOLENT crimes.

CLAIM

"The state will have to increase our taxes."

FACT

FALSE: Under 3 Strikes, California taxpayers will no longer

have to pay the outrageous costs of running career criminals through the judicial system's revolving door time and again. The Office of Planning and Research estimates 3 STRIKES WILL SAVE TAXPAYERS \$23 BILLION over five years.

CLAIM

Proposition 184 will "severely cut essential services."

FACT

HOGWASH: Taxpayers will save \$23 Billion under 3 Strikes. Services will not be cut. 3 Strikes is endorsed by the California Police Chiefs' Association, California Peace Officers' Association, California State Sheriffs' Association and law enforcement throughout the state.

3 STRIKES SAVES LIVES AND TAXPAYER DOLLARS! YES ON 184!

JAN MILLER

Chairperson, Doris Tate Crime Victims Bureau

CHIEF LARRY TODD

President, California Police Chiefs' Association

LEWIS K. UHLER

Chairman, Center for the California Taxpayer



## **Public Transportation Trust Funds. Gasoline Sales Tax. Initiative Statute.**

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**Official Title and Summary Prepared by the Attorney General**

### **PUBLIC TRANSPORTATION TRUST FUNDS. GASOLINE SALES TAX. INITIATIVE STATUTE.**

- This measure imposes an additional 4% tax on retail sales of gasoline.
- Proceeds will be deposited into transit and highway trust funds.
- Revenue to be spent on electric rail and clean fuel buses, light rail, commuter and intercity rail systems, transit for elderly and disabled persons, bicycle projects, crime reduction on transit systems, and other transportation programs.
- Limits overhead on state construction projects and transportation operations funded from revenue.
- Provides for acquisition of agricultural land conservation easements, wetlands, riparian habitat and land for parks as offsets to transportation impacts.

#### **Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- Increases gasoline sales tax revenues by about \$630 million annually for specified transportation purposes.
  - Increases state and local costs, potentially in the tens of millions of dollars annually, to operate passenger rail and bus services. These costs are potentially offset to an unknown extent by revenues from the measure.
  - Shifts about \$25 million annually in existing sales tax revenues from the General Fund to transportation uses.
  - Potential loss in gasoline and sales tax revenues to state and local governments of less than \$15 million annually.
  - Increases administrative costs of about \$46 million annually to various state agencies, offset by the measure's revenues and other state transportation funds.
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## Analysis by the Legislative Analyst

### Background

California's surface transportation system consists of streets and highways and public mass transportation. The streets and highways system includes more than 160,000 miles of paved roadway for private and commercial travel.

Public mass transportation includes primarily mass transit bus systems and passenger rail. Mass transit bus systems provide regular bus service to the public throughout the day, usually in urban and metropolitan areas. The passenger rail system includes intercity rail, commuter rail, and urban rail transit services.

- **Intercity rail** primarily serves business and recreational travelers between cities in California and other parts of the country. This service is typically operated by Amtrak and includes services such as the "San Diegans" from San Diego to Santa Barbara, the "San Joaquins" from Bakersfield to Oakland, and the "Capitols" from Sacramento to San Jose.
- **Commuter rail service** generally offers frequent service during commute hours. Service during other periods of the day is usually limited. The Peninsula Commuter Rail service (Caltrain) from San Francisco to San Jose and the Metro Link service in Los Angeles are examples of this type of service.
- **Urban rail transit** provides regular service throughout the day, generally within an urban or metropolitan area. Examples of this service include the Sacramento Light Rail system, the San Diego Trolley, the San Francisco Bay Area Rapid Transit (BART) system, and the Los Angeles Metro Red and Blue Lines.

**Operating Costs.** Operating costs for passenger rail and mass transit bus services are covered, in part, by passenger fare revenues. The remaining expenses are paid from various federal, local, and state sources with the state funds coming from a portion of the state sales tax. In 1993-94, the state provided approximately \$80 million to pay the operating costs of passenger rail and mass transit bus services.

The operating and maintenance costs of the state highway system are funded mainly from the state motor vehicle fuel ("gasoline") tax and commercial vehicle ("truck") weight fees. In 1993-94, the state spent approximately \$880 million to maintain and operate state highways. Local streets and roads are maintained and operated by cities and counties with these costs covered primarily by local tax revenues and a portion of the state gasoline tax revenues.

**Capital Costs.** Capital costs to improve passenger rail and mass transit bus systems are also funded from various federal, local, and state sources. These costs include buying railroad rights-of-way, trains and buses, and constructing rail tracks, maintenance facilities, and stations.

Capital costs to improve streets and highways include strengthening highways and bridges to earthquake safety standards, improving safety with traffic signals, separating highways and railroad crossings, constructing pedestrian and bicycle facilities, and expanding the capacity of the existing system.

State funds for capital improvements to streets and highways come from a variety of sources including gasoline taxes, truck weight fees, bond funds, and a portion of the state sales tax. The amount of state funds provided for these purposes varies from year to year. In 1993-94, the state's contribution was approximately \$1.3 billion.

### Proposal

This measure imposes a 4 percent sales tax on gasoline (excluding diesel fuel), beginning January 1, 1995. This new sales tax is in addition to the existing 18 cents per gallon state tax on gasoline (and diesel) and the average sales tax of approximately 8 percent imposed by the state and local governments on all goods including gasoline. Revenues generated by the increased tax, after deducting for collection costs, will be used to improve and operate passenger rail and mass transit bus services and to make specific types of improvements to streets and highways. The measure also contains various provisions which, in general, place restrictions on the use of certain state and local revenues for transportation purposes.

### Use of Additional Gasoline Sales Tax Revenues

The measure specifies how the new tax revenues will be used, as shown in Figure 1.

**Transportation Improvement Projects.** As Figure 1 shows, the first 27 percent of the new tax revenues raised each year will be used to improve earthquake safety of highway and rail bridges, enhance traffic safety, mitigate environmental impacts of transportation projects, and reduce traffic congestion. Funding for (1) earthquake safety projects and (2) electric and clean fuel vehicle research and development, however, will expire in 2000 and 2010, respectively. Consequently, the proportion of new revenues dedicated to fund transportation improvement projects will drop to 12 percent in 2000 and to 10 percent in 2010.

Figure 1

## Use of Additional Gasoline Sales Tax Revenues

### Transportation Improvement Projects

#### First 27 Percent of Revenues<sup>a</sup>

- 15 percent per year for earthquake safety and retrofit projects (until 2000)
- 2 percent per year each for:
  - Bicycle and pedestrian facilities
  - Electric and clean fuel vehicle research and development (until 2010)
  - Traffic signal synchronization projects
  - Environmental enhancement and mitigation projects
  - Highway-railroad grade separation projects
- 1 percent per year each for:
  - Fog-related safety projects
  - Carpool information systems and transit planning

### Transit Capital Improvement and Operating Assistance

#### Remaining 73 Percent of Revenues<sup>a</sup> Transit Capital Improvement

- Up to 10 percent of funds for capital improvement per year to construct a high-speed rail line (speed of at least 150 miles per hour) between the San Francisco Bay Area and Los Angeles
- \$500 million for fast train service (speed of up to 110 miles per hour) between the Bay Area and Los Angeles
- \$350 million to improve the rail line connecting Los Angeles and Long Beach harbors with downtown Los Angeles
- \$200 million to extend Caltrain to downtown San Francisco
- \$140 million to buy or lease rights-of-way and track rights statewide
- \$70 million to improve intercity and commuter rail in Riverside and San Bernardino Counties
- \$60 million to improve the Los Angeles-San Diego rail corridor
- \$20 million to construct a rail-ship loading terminal for the Port of Oakland
- At least 5 percent of funds for capital improvement each year for intercity rail improvements
- \$5 million to restore rail service between San Diego and Imperial Counties
- \$5 million for rail feasibility studies
- Remaining funds to local agencies based on formula, for electrification projects, acquisition of clean fuel vehicles, fog and traffic safety projects

#### Transit Operating Assistance

- Up to \$4 million per year for a Yosemite shuttle service
- Up to \$1 million per year for a Lake Tahoe/Truckee transit system
- Remaining funds to eligible transit operators based on formula

<sup>a</sup> The proportion of funds for transportation improvement projects will drop to 12 percent beginning in 2000, and 10 percent beginning in 2010, resulting in the total proportion of funds for transit capital improvement and transit operating assistance to increase to 88 percent in 2000 and 90 percent in 2010 and thereafter.

The remaining tax revenues will be used for public mass transportation purposes as follows: 65 percent for transit *capital improvement* projects and 35 percent for transit *operating assistance*.

**Transit Capital Improvement.** The measure allows up to 10 percent of the capital improvement funds to be used "off the top" for the development of a high-speed rail line between the San Francisco Bay Area and Los Angeles with an operating speed of at least 150 miles per hour. The remaining funds will be used as follows:

- First, to fund about \$1.37 billion of specified transit capital improvement projects statewide at the maximum amounts shown in Figure 1. These funds will be allocated to projects by a committee specified by the measure.
- Second, any remaining money will be allocated to specified local agencies, based on population formulas, for various transportation improvement projects. As the specified statewide projects (shown in Figure 1) receive their maximum amounts, more capital improvement funds will become available to local agencies for local improvement projects.

The measure requires that at least 80 percent of the total capital improvement funds be spent on actual project construction, including rights-of-way acquisition. Administrative overhead expenses cannot be more than 20 percent of project funds.

**Transit Operating Assistance.** The measure provides up to \$5 million each year to establish transit services in the Yosemite and the Lake Tahoe areas. The remaining operating assistance funds will be provided to eligible transit operators to improve operations and service levels, including providing paratransit services for the elderly and the disabled and increasing the efficiency of system operations. Any funds not used for transit operations will be spent on highway-railroad grade separation projects.

### Fiscal Effects

**Revenues.** At current gasoline price and consumption levels, the measure would generate revenues of about \$630 million annually. Actual revenues would depend on the amount of gasoline used and the price of gasoline. As discussed previously and shown in Figure 1, these revenues would be used for specific transportation purposes set forth in the measure. The measure would also shift about \$25 million in existing sales tax revenues annually from the state General Fund to a dedicated fund for transportation uses only.

An increase in the sales tax on gasoline could result in a reduction in gasoline use by the public. To the extent gasoline use decreases, the state and local governments could lose an unknown amount of gasoline tax revenues for transportation purposes, as well as general sales tax revenues. Total gasoline and sales tax revenue losses would be relatively insignificant, and likely less than \$15 million each year.

**Costs.** Various state agencies would incur costs of about \$46 million annually as a result of this measure. These costs would be covered by the new tax revenues and other state transportation funds.

Fare revenues typically cover only a portion of the operating costs of passenger rail and bus services. Therefore, as the new tax revenues from the measure expand passenger rail and bus services, additional state and local operating costs would be incurred. These

additional costs are unknown, but could potentially be in the tens of millions of dollars annually. These costs could be covered, to an unknown extent, by the operating assistance funds provided by the measure.

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**For the text of Proposition 185 see page 65**

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## Public Transportation Trust Funds. Gasoline Sales Tax. Initiative Statute.

### Argument in Favor of Proposition 185

#### STOP THE LEGISLATURE FROM RAIDING TRANSPORTATION FUNDS CUT WASTE IN TRANSPORTATION SPENDING PROMOTE PUBLIC TRANSPORTATION AND REDUCE AIR POLLUTION

#### MAKE ROADS AND BRIDGES EARTHQUAKE SAFE

We can't count on the Legislature to get California moving again.

It's time we take action ourselves! By voting YES on 185, the people of California are taking steps to rebuild our economy and our transportation system. Proposition 185 was placed on the ballot by citizens, not politicians.

Proposition 185 is a comprehensive transportation plan that will streamline and revitalize California's transportation system. It's one ballot measure that does something positive for all of us.

Proposition 185 will generate \$700 million a year—*all specifically earmarked* for basic transportation improvements—from a four percent increase in the tax on gasoline. Proposition 185 also mandates deep cuts in wasteful bureaucracy in the state transportation department.

#### STOP THE LEGISLATURE FROM RAIDING TRANSPORTATION FUNDS

The Legislature has repeatedly raided transportation funds for other uses. This year alone, they took millions of dollars away from road and bridge programs. *YES on 185 will outlaw this practice forever.*

Proposition 185 permanently forbids the Legislature from taking transportation funds for other purposes.

#### CUT GOVERNMENT WASTE

We need to spend our transportation money more effectively and efficiently.

Huge amounts of our transportation dollars are spent on wasteful bureaucracy even before construction begins. *The Legislature has completely failed to stop this waste.* YES on 185 eliminates this waste.

Proposition 185 requires:

- 80 percent of every transportation dollar be used to actually build transportation facilities
- a long-term transportation spending plan before any funds are spent
- an independent audit of all transportation spending

#### PROVIDE NEW TRANSPORTATION SERVICES

YES on 185 will provide funds to rebuild roads and bridges to make them earthquake safe.

YES on 185 will pay for public transportation programs to reduce air pollution. It will buy electric and clean fuel buses to replace diesel buses.

YES on 185 will provide more bus and rail service, reducing traffic congestion and air pollution.

#### YES on 185 HELPS REBUILD CALIFORNIA'S ECONOMY

Better transportation is fundamental to California's economic growth.

Transportation funds provided by Proposition 185 will create jobs and put people back to work NOW. Proposition 185 also creates the foundation for a strong and stable economy in years to come.

#### PUBLIC INTEREST GROUPS SUPPORT Proposition 185

"Proposition 185's new gas tax funds are largely allocated to local transportation districts to pay for their local transit projects, so the Legislature cannot divert the money."

California Transit League

"Proposition 185 provides public transportation funds to help meet the transit needs of seniors, people with disabilities, low income persons, and people who are not able to drive."

World Institute on Disability

"Electric bus and rail systems are a good way to reduce air pollution."

Sierra Club

Clean Our Air.

Reduce Traffic Congestion.

Help the California Economy Recover.

Make Our Roads and Bridges Earthquake Safe.

Cut Waste and Stop Legislative Raids on Transportation Funds.

YES ON Proposition 185!

**HOWARD OWENS**

*Legislative Director, Congress of California Seniors*

**DENNIS T. ZANE**

*Executive Director, Coalition for Clean Air*

**GERALD H. MERAL**

*Executive Director, Planning and Conservation League*

### Rebuttal to Argument in Favor of Proposition 185

Backers claim Proposition 185 would help our economy. They must be using some kind of *new math*.

How does a \$700 MILLION ANNUAL TAX INCREASE help our economy? IT DOESN'T.

We may not be economists, but we do know a little something about California's transportation system. We also know a few disturbing facts about Proposition 185:

*Q: Who decides how the billions in Proposition 185's new taxes would be spent? Local and regional transportation planners?*

*A: NO.* The authors of Proposition 185 THINK THEY KNOW BEST. The measure directs BILLIONS of dollars TO THEIR PET TRANSIT PROJECTS. If Proposition 185 passes, those projects will be LOCKED INTO LAW.

*Q: Where's the accountability? Who would be in charge of the new funds?*

*A:* Proposition 185 completely bypasses existing checks and balances and community transportation planning. It gives THREE PEOPLE the SOLE AUTHORITY to SPEND BILLIONS of TAX DOLLARS. And the NEW TAXES won't be subject to state budget controls.

*Q: Would Proposition 185 ensure our bridges and roads withstand the next big earthquake?*

*A: NO.* The relatively few dollars Proposition 185 dedicates to this crucial category is only a *DROP IN THE BUCKET* of what's needed. Proposition 185's authors know that, yet they opted to direct the bulk of the new tax dollars to their OWN PET PROJECTS.

Proposition 185 is an annual \$700 MILLION TAX INCREASE to fund the authors' PET PROJECTS. It is an IRRESPONSIBLE measure that IGNORES OUR REAL TRANSPORTATION NEEDS.

VOTE NO on PROPOSITION 185!

**OCTAVIA DIENER**

*Chairwoman, California Transportation Commission*

**ANDY SCHLAEFLI**

*Chairman, California Highway Users Conference*

**LARRY McCARTHY**

*President, California Taxpayers' Association*

# Public Transportation Trust Funds. Gasoline Sales Tax. Initiative Statute.

# 185

## Argument Against Proposition 185

OUR TAXES ARE ALREADY TOO HIGH. PROPOSITION 185 WOULD RAISE THEM EVEN HIGHER. AND IT'S A TAX INCREASE OF THE WORST KIND!

**A \$700,000,000 TAX INCREASE!**

It would increase the sales tax we pay at the pump on gasoline by 4%, forcing consumers to pay a total sales tax on gasoline of more than 12% in some counties. ACCORDING TO THE STATE'S INDEPENDENT LEGISLATIVE ANALYST, Proposition 185 could raise taxes even more than \$700 million a year.

**DOUBLE TAXATION. IT'S A TAX ON A TAX!**

Forty cents of the per-gallon price we already pay for gasoline is actually for state and federal gasoline taxes. Because Proposition 185 would increase the sales tax charged on the total price of gasoline, it amounts to a tax on existing taxes. Sound taxing? It would be!

**HIGHER TAXES ON ALL FUTURE GASOLINE PRICES!**

Proposition 185 won't simply increase today's gasoline prices. Because it increases the sales tax charged on total gasoline prices, 185 would AUTOMATICALLY APPLY TO ALL FUTURE GASOLINE TAX AND PRICE HIKES as well.

**MORE TAX DOLLARS DOWN THE BLACK HOLE!**

The bureaucrats should tighten their belts, CUT THE WASTE in transportation spending and accomplish more with the billions in tax dollars they've already got.

PROPOSITION 185 WOULD ALSO CREATE AN IRRESPONSIBLE TRANSPORTATION FUNDING SYSTEM.

A NEW, ALL-POWERFUL THREE-PERSON COMMITTEE IN SACRAMENTO WITH UNPRECEDENTED CONTROL OVER BILLIONS OF TAXPAYER DOLLARS.

Proposition 185 would create a new Rail Committee, comprised of three POLITICAL APPOINTEES, with the SOLE AUTHORITY to spend billions of our hard-earned tax dollars. That's TOO MUCH POWER to give three political appointees!

BYPASSES THE EXISTING TRANSPORTATION FUNDING SYSTEM AND IMPORTANT CHECKS AND BALANCES.

Increased taxes would be directly controlled by an ALL-POWERFUL RAIL COMMITTEE, completely

independent of the protections of the state budget review process. Our hard-earned dollars would be SPENT ON PROJECTS AND SERVICES THAT HAVE NOT BEEN SUBJECTED TO CAREFUL SCRUTINY and public review at the local, regional or state level.

TAKES CONTROL AWAY FROM OUR LOCAL PLANNERS AND GIVES IT TO SACRAMENTO POLITICAL APPOINTEES.

Proposition 185 BYPASSES the existing local transportation review and PUBLIC HEARING processes that currently ensure limited dollars are spent where most needed. Decisions would be made, instead, by an ALL-POWERFUL RAIL COMMITTEE.

SPENDS OUR TAXES ON RAIL PROJECTS THAT ARE NOT HIGH PRIORITY, WHILE LEAVING MORE IMPORTANT PROJECTS UNFUNDED.

Even if the tax increase itself were acceptable, which is not the case, the PRIORITIES established by Proposition 185 are NOT IN LINE WITH OUR REAL NEEDS. For instance, it would spend \$500,000,000 of our tax dollars on a long-distance coastal rail line from San Francisco to Los Angeles. *Not much help to those of us who sit in traffic on overcrowded freeways and drive on streets with potholes in need of repair.*

**VOTE NO!**

**NO on the \$700,000,000 TAX INCREASE!**

**NO on DOUBLE TAXATION!**

**NO on IRRESPONSIBLE TRANSPORTATION FUNDING!**

**NO on a NEW ALL-POWERFUL POLITICAL RAIL COMMITTEE!**

**VOTE NO on PROPOSITION 185!**

**LARRY McCARTHY**

*President, California Taxpayers' Association*

**MARC DUERR**

*Director, California Business Alliance*

**LEE PHELPS**

*Founder, Alliance of California Taxpayers and Involved Voters (ACTIV)*

## Rebuttal to Argument Against Proposition 185

The opponents obviously did not read Proposition 185.

YES on 185 will CUT government waste and bureaucracy, something legislators have failed to do.

Proposition 185 does not create any new agency. It simply requires the existing California Transportation Commission and its rail committee to reduce waste. It does require full public hearings.

YES on 185 will permanently STOP the politicians from raiding our transportation dollars.

Proposition 185 was written by citizens—not politicians—to help fight air pollution, rebuild our economy and provide jobs.

Proposition 185 will build safe rail and bus systems, and make our roads and bridges earthquake-safe. A gasoline tax is the best way to pay for these improvements.

The oil companies are funding the opposition. Apparently they don't want to give us an alternative to the polluting automobile.

Don't let the oil companies confuse you. Proposition 185 doesn't tax the existing sales tax.

Proposition 185 funds bus and rail service between and within our cities to reduce air pollution, save energy, and cut traffic congestion.

Nearly all the funds are allocated to local transportation districts. The Legislature cannot divert the money.

YES on 185 guarantees that 80% of transportation funds go to actual transportation construction, including reducing the environmental impact of the construction projects.

Cut Government Waste.

Stop Legislative Raids.

Reduce Traffic Congestion.

Save Energy.

Clean Our Air.

Rebuild Our Economy.

YES on 185.

**ANTHONY GARRETT**

*Executive Director, Citizens for Reliable and Safe Highways (CRASH)*

**ED MASCHKE**

*Executive Director, California Public Interest Research Group*

**DENNIS ZANE**

*Executive Director, Coalition for Clean Air*



**Health Services. Taxes.  
Initiative Constitutional Amendment and Statute.**

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**Official Title and Summary Prepared by the Attorney General**

**HEALTH SERVICES. TAXES.  
INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.**

- Establishes health services system with defined medical, prescription drug, long-term, mental health, dental, emergency, other benefits; available to California residents, replacing existing health insurance, premiums, programs.
- Services funded by tax upon employers, individuals, with stated exemptions, cigarette/tobacco products surtax, existing federal, state, county health care funds, if authorized; proceeds deposited into Health Security Fund. Health benefit providers, authorized costs, paid from fund.
- Elected Health Commissioner administers fund/system, coordinates with federal law.
- Provides cost controls; annual expenditure limits based on prior year expenditures, unless adjusted.
- Creates advisory Policy Board, Consumer Council.

**Summary of Legislative Analyst's  
Estimate of Net State and Local Government Fiscal Impact:**

- Total funds for a state-administered health system potentially exceeding \$75 billion annually, including \$40 billion to \$50 billion from new state taxes. Costs could be less or greater than funds.
  - Potential state and local government savings in the hundreds of millions of dollars annually over time if these governments limit their contributions to the new health care system.
  - Potential state revenue losses initially as much as a few hundred million dollars annually. Long-term effect on state revenues is uncertain, but probably not major in context of the total state economy.
-

## Analysis by the Legislative Analyst

### Background

Californians currently receive health care in a number of different ways:

- A majority of Californians under age 65 receive health insurance through their employer or the employer of a family member.
- Most Californians age 65 and over receive coverage through the federal Medicare Program.
- Others, such as those who are self-employed, purchase health insurance for themselves.
- Many low-income persons receive health care services through the Medi-Cal Program or other public "safety net" programs.

Currently, California's population is about 32 million. Of this, an estimated 6 million people do not have any health insurance and are not covered by Medicare or Medi-Cal. These uninsured people receive health care by paying for it themselves, seeking charity care, or relying on public "safety net" programs. However, the extent of the health care they receive is probably less than that available to those who have insurance coverage.

Of the uninsured, over 80 percent are employed or are the family members of employed workers. Typically, uninsured employees work in lower-paying or temporary jobs. They are concentrated in businesses such as agriculture, construction, retail trade, and other "service sector" businesses. Many of these firms have fewer than 25 employees.

### Proposal

This measure establishes a "single payer" health care system in which the State of California would administer and finance health care coverage, thereby replacing most private health insurance and current public health care programs. The new system would provide a wide range of health care coverage, with some benefits such as long-term care being phased in over the first few years following passage of the measure. Ultimately, the range of benefits provided would depend on the extent of funding available. An elected Health Commissioner would oversee the system.

The health benefits provided by the measure would be financed by (1) revenues from new taxes on employers, individuals, and cigarette and tobacco products and (2) potentially, by a transfer of existing federal, state, and local funds for health care programs. The tax revenues generally would replace current spending by employers and individuals for private health insurance.

The proposed system would be similar to those used in some other countries, such as Canada.

The state would need permission from the federal government in order to include in the new health care system programs currently funded in whole or in part by the federal government (such as the Medi-Cal and Medicare Programs). In addition, the state likely would need a change in the federal law known as the Employee Retirement and Income Security Act of 1974 (ERISA). The ERISA prohibits states from regulating benefit plans that employers provide for their workers, such as health insurance. This provision could prevent the state from imposing the payroll tax on employers.

Although it is not known whether an exemption to the ERISA would be enacted by Congress and signed by the President, the following discussion assumes the state would receive an exemption as well as the necessary permission to include federally funded programs such as Medicare and Medi-Cal in the system. *If this permission and the law change to ERISA do not occur (1) some federal revenues would be lost, and (2) some or all of the initiative, including a substantial portion of the revenues needed to finance the system, may not take effect.*

**Universal Health Care Coverage.** Under the measure, all California residents would be eligible to receive health care services (assuming state and local governments transfer existing programs into the new system), effective January 1996. In order to receive long-term care benefits (such as nursing home care), however, individuals generally would be required to have been employed in California for at least two years.

**Benefits and Copayments.** Benefits under the measure include physician office visits, inpatient and outpatient hospital care, prescription drugs, diagnosis and testing services (such as X-rays), routine vaccinations, eye care, full dental care for children and some dental care for adults, mental health services, home health services, and long-term care. Individuals may choose to receive health care from any professional willing to provide benefits under the system, including physicians and health maintenance organizations.

Under the measure, the Commissioner may establish copayments of up to \$5 for elective services such as physician visits, and half the cost of mental health outpatient visits after the first 26 visits in a year. The Commissioner may continue these copayments beyond the first year if sufficient funding is not available to support the system. The measure requires that copayments of up to \$5 be charged for most outpatient drugs, but provides for a waiver of the copayment for financial hardship.

**Health Commissioner.** The initiative creates a new statewide elected official, the Health Commissioner, who is responsible for overseeing the implementation and operation of the system. Among other activities, the measure requires the Commissioner to:

- Directly pay health care providers for their services.
- Negotiate rates, fees, and prices with health care providers and prescription drug manufacturers.
- Implement cost control measures, such as copayments or limits on some services, reimbursement rate reductions, and utilization controls. These cost control measures could be imposed in the event that funding is insufficient to cover the cost of all benefits described in the measure.
- Collect data from health care providers in order to evaluate the performance of individual providers and the health care system as a whole.

The measure also establishes a Health Care Policy Advisory Board to assist the Commissioner in setting policy. In addition, the measure creates a Consumer Council and Regional Consumer Advocates to represent the interests of individuals who receive health care under the system.

**Financing.** The new health care system would be financed from new revenues raised by the measure and, potentially, existing federal, state, and local government funds currently spent for health care. The new revenues would come from the following sources:

- A payroll tax on all employers ranging from 4.4 to 8.9 percent, depending on the number of employees. This tax would be phased in over two years, beginning in January 1996, and would be reduced for employers to the extent that costs for current employee health benefits must continue due to a contractual agreement.
- A 2.5 percent income tax for all individuals and an additional 2.5 percent tax, totaling 5 percent, for individuals with annual incomes above \$250,000 (\$500,000 for couples).
- A \$1.00 per pack tax on cigarettes and a similar tax on other tobacco products.

The payroll and cigarette taxes imposed by the measure would be adjusted automatically if federal health care reform legislation is enacted. For example, if federal legislation increased cigarette taxes by 75 cents per pack, the measure would impose a further increase of 25 cents per pack, for a *total* tax increase of \$1.00 per pack.

In addition, the measure allows the Legislature to redirect funds from existing government-funded health care programs for low-income people (for example, Medi-Cal funding) into the system. The measure also permits state and local governments to include in the system funds currently spent for health care benefits to public employees. Because these governments must pay the new payroll taxes regardless of whether they transfer these benefits into the new system, it is very likely that they will choose to provide benefits through the new system.

The measure authorizes the Legislature to reduce or increase the taxes imposed by the initiative in the event that revenues exceed or fall short of the cost of providing benefits under the system. However, the measure states the intent of the people that expenditures in any given year for the new health care system not grow faster than the rate of growth in the state's economy and population.

### **Fiscal Effect**

This measure could have far-reaching effects on individuals and businesses regarding both the cost and the nature of health care coverage. Specific businesses and individuals would be affected either positively or negatively. Below, we focus on the overall impact of these changes as they relate to the finances of state and local governments.

**Revenues and Expenditures for the New Health Care System.** The taxes imposed by the measure would result in additional state revenues in the range of \$40 billion to \$50 billion annually (primarily from the payroll tax) to provide health care services for California residents. These revenues would replace existing employer and employee contributions for health benefits and services. If federally funded programs such as Medicare, Medi-Cal, Veterans Administration benefits, and others were included, resources available to the new system would be substantially higher—potentially exceeding \$75 billion annually.

The costs to provide health services under the new system could be higher or lower than the funds available for support of the system, depending on several factors. These include:

- Changes in costs for the required benefits package.
- Changes in the utilization of health care services by individuals, including those currently uninsured.
- The magnitude of administrative savings and other efficiencies, such as reduced emergency room usage due to better access to primary care physicians.
- The extent of actions by the Health Commissioner to achieve cost containment.
- Decisions by the Legislature and Governor to increase or decrease funding to support the system.

In the longer term, we note that the rate at which revenues would grow under the measure (essentially, the rate at which the state's economy grows) is not as high as the rate by which spending for health care has grown historically in the United States. Thus, over time it would be increasingly likely that steps would need to be taken to keep expenditures and funding levels in line. These steps could include:

- Continuous improvements in the efficiency of health care delivery, such as limits on the use of expensive medical technology that currently may tend to be overused.
- Cost-containment measures, such as reductions in payments to physicians and other health care providers, or limits on some elective services.
- Tax increases or redirection of state spending from other programs to the new health care system.

**Impact on State and Local Government Expenditures.** The measure would directly affect state and local governments in two ways: as providers of health care for indigent persons, and as employers who currently pay for the health insurance of their employees. Initially, the impact on state and local governments as providers of health care for indigent persons would be relatively minor. This is because the amount of funds potentially transferred to the system for these programs probably would be roughly equal to current expenditures.

With respect to governmental expenditures for public employee health benefits, the effect of the measure initially would depend upon whether the payroll taxes governments would pay into the new system were higher or lower than their current costs for employee health benefits. Our review indicates that governments are likely to save money with respect to those employees who are *currently* insured. However, with respect to those employees who are *not now covered*, such as part-time and temporary employees, costs to governments would increase. The *net* effect on state and local governments as employers is unknown—at least initially.

Over time, the impact on state and local governments both as employers and as providers of health care for indigent persons would depend on actions taken by these governments. Specifically, if the state and local governments limit their total contributions to the new system to a rate of increase determined by growth in the state's economy and population—as authorized by the initiative—the measure would result in savings. This is because costs for programs such as Medi-Cal have historically increased at a higher rate. After a few years,



total savings due to limiting governmental spending for health care to the rate of increase allowed under the measure could be in the hundreds of millions of dollars annually.

**Impact on the State's Economy and Revenues.** This measure could have a number of effects on the state's economy which would have both positive and negative implications for state and local revenues. The magnitudes of these different impacts are difficult to predict, and would depend in part on the behavioral responses of businesses and individuals.

The measure's economic effects could include both broad economy-wide impacts and significantly differing effects and shifts within various sectors of the economy, since the effects on different businesses and individuals could vary widely. For example, there could be changes in the labor markets involving employment levels, wage rates, worker productivity and labor mobility. Likewise, business decisions about location, firm size, and prices could be affected. From a broader perspective, there could be changes in the statewide levels of income, profits and production, and in the mix of health-related versus other expenditures. The economic effects would tend to differ by industry, by size of firm, and by category of employee. Some of these economic effects would be long-term in nature, whereas others would be short-term.

**Short-term effects on the economy and revenues.** At least initially, the net revenue effect of all of the foregoing economic changes probably would be negative. This is largely because employers who are not currently providing health insurance (generally smaller firms) and who are not able to pass on the costs of the payroll tax to consumers would likely reduce the number of their employees and/or the wages they pay. This, along with the various uncertainties and temporary short-run adjustments and dislocations that would accompany the measure initially, would tend to negatively affect statewide economic activity, particularly in the lower-wage sector of the economy. This would reduce revenues. The state revenue loss during the first few years is unknown but could potentially be as much as a few hundred million dollars annually (or about one-half of one percent of General Fund revenues).

**Long-term effects on the economy and revenues.** After several years, the measure's effect on overall state economic performance is uncertain. The net effect would depend on the significance of the measure's positive economic effects relative to its on-going negative effects. The on-going negative effects would include reduced employment and wages, primarily in the low-wage sector,

and incentives to downsize certain firms in order to reduce their payroll tax rate under the measure. This could in some cases reduce economic productivity.

The positive effects would include reduced labor costs for certain employers for whom the payroll tax is less than current health costs. This would benefit the economy in several ways, such as increasing corporate profits, stimulating employment and raising wages. There also would be certain benefits from the increased labor mobility that would result from individuals being able to retain health benefits when changing employers.

In addition, California employers currently can deduct their costs of providing employee health benefits when computing their taxable income for state and federal income tax purposes. However, out-of-pocket health-related expenditures incurred by individuals are not fully deductible when computing their taxable incomes. This measure, by relying primarily on state payroll and income taxes—which are deductible for purposes of calculating federal taxes—to fund health costs, could result in a larger share of such out-of-pocket health-related costs being federally tax deductible. It is estimated that this would reduce annual federal tax liabilities of California businesses and individuals possibly by a couple billion dollars. Although certain individual and corporate taxpayers would experience reduced spendable income due to increased taxes under this measure, the reduced federal tax liability itself would have an unknown positive effect overall on the California economy and eventually on revenues, as this money is spent and/or invested.

Although the measure would result both in economic "winners" and "losers," after several years its effect on the overall economic performance of the state is uncertain, but probably not major in the context of the total state economy.

**Proposition 98.** This measure could affect the amount of money the state provides to schools under Proposition 98. For example, because this measure could result in a reduction in state revenues, the amount of money provided to schools could be reduced. Such a reduction in school funding would be dependent on future legislative action.

**Other State Revenue Impacts.** The measure would affect state revenues in other ways as well. For example, the state charges a tax on premiums for health insurance sold in California by for-profit companies. Since most private health insurance would be eliminated, the measure would reduce premium tax revenues—by about \$2 million annually.

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For the text of Proposition 186 see page 75

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### Argument in Favor of Proposition 186

- Does your health insurance pay for long term care at home or in a nursing home?
- Can you keep your insurance forever, even if you lose or change your job?
- Does your insurance allow you to see any doctor you choose?
- Is your doctor free to prescribe the treatment you need, without outside interference?
- Will you still be insured, even if you have cancer or another "pre-existing condition?"
- Does your insurance pay for prescription drugs, preventive care, chiropractors, nursing care, and mental health?
- Will Medicare take care of all your health needs during retirement?
- Are you free from fear of losing your life savings due to a major illness?

IF YOU ANSWERED "NO" TO ANY OF THESE QUESTIONS, YOU DON'T HAVE THE HEALTH INSURANCE YOU NEED AND DESERVE.

Right now a huge amount of our health care money—money paid by California consumers, businesses and taxpayers—is wasted by insurance companies.

Insurance companies spend up to 30 cents of every dollar we pay them for health care on something else: paperwork, advertising, profits, big buildings and big salaries for their executives.

**PROPOSITION 186 ENDS THE INSURANCE COMPANY RIP-OFF AND PUTS THE MONEY BACK WHERE IT BELONGS: BUYING MORE AND BETTER HEALTH SERVICES.**

186 covers long term care and prescription drugs. All medically necessary health care—as determined by you and your doctor—is covered.

**186 GUARANTEES YOUR CHOICE OF DOCTORS.**

If you lose or change jobs, or start your own business, or retire, your health insurance goes with you and you can keep the same doctor.

With Proposition 186, your coverage can never be taken away, as long as you are a legal California resident. You cannot be denied coverage for "pre-existing conditions."

**PROPOSITION 186 HELPS CALIFORNIA'S ECONOMY.**

Businesses now providing employee health benefits pay more than 10% of their payroll costs for health insurance. 186 significantly reduces these employer costs and provides employees with better coverage.

Proposition 186 also lowers the cost of doing business—and living—in California because it eliminates the need to purchase duplicate medical coverage in our automobile, workers' compensation, homeowners' and business liability insurance.

**PROPOSITION 186 HELPS OUR SCHOOLS.**

Proposition 186 saves our schools more than \$600 million by reducing what they pay for health care for teachers and other school employees. That's \$600 million to improve our schools.

**PROPOSITION 186 IS A CONSUMER MOVEMENT FOR THE HEALTH INSURANCE WE NEED.**

Over a million Californians signed petitions to put 186 on the ballot. Thousands more are giving \$1, \$5 and \$10 in this crusade to end our health care worries forever.

Insurance companies are spending millions of dollars to oppose 186. Every time you see one of their ads, remember:

**THEY ARE SPENDING YOUR MONEY TO DENY YOU THE HEALTH CARE YOU AND YOUR LOVED ONES DESERVE.**

We can do it. Stop the insurance rip-off. **VOTE YES ON PROPOSITION 186.**

**MARY TUCKER**

*Vice-Chair, California State Legislative Council  
American Association of Retired Persons*

**KURT LAUMANN, R.N.**

*President, California Nurses Association*

**JOHN PROCTOR**

*President, California Small Business Council*

### Rebuttal to Argument in Favor of Proposition 186

#### NO GUARANTEE OF PHYSICIAN CHOICE

You may be **FORCED TO CHANGE PHYSICIANS**. Physicians who won't practice bureaucracy medicine through the new government system, may only accept patients who can afford to pay the new taxes AND pay for private coverage.

#### SENIORS OPPOSED

186 seeks to fold Medicare into the state system. Multi-billion dollar shortfalls could mean rationing services and jeopardizing seniors' health care security. **SENIORS PAY THE NEW INCOME TAX AND, IN RETURN, MAY GET LONG WAITS.**

#### WILL GIGANTIC GOVERNMENT BUREAUCRACIES SAVE MONEY?

**BILLIONS WILL BE SPENT EACH YEAR FOR HUGE STATE AND REGIONAL BUREAUCRACIES** to "regulate" health care. Proponents claim bureaucracies will be more cost-effective than private coverage!

**HAS BIG GOVERNMENT EVER REDUCED WASTE, SAVED MONEY OR TREATED PEOPLE WITH RESPECT AND COMPASSION?**

#### DAMAGES CALIFORNIA'S ECONOMY AND BUSINESSES

The National Federation of Independent Business, **REPRESENTING 46,000 SMALL CALIFORNIA BUSINESSES**, opposes 186. \$40 billion in new taxes will devastate California's

businesses and cost jobs. Worse, there are **NO LIMITS** on how high taxes could be raised to cover shortfalls.

**The UNIVERSITY OF CALIFORNIA/BERKELEY GRADUATE SCHOOL OF PUBLIC POLICY**, in an independent study, discovered that the system faces shortfalls of \$34 billion to \$45.9 billion the first year it's fully implemented. What happens then? Rationing, cuts, long waits?

Health care rationing, shortfalls, more huge tax increases or **CUTS IN PROGRAMS LIKE EDUCATION, CRIME, SCHOOLS AND PRISONS**, are not the reforms Californians want.

Kathleen Brown, Pete Wilson, seniors, nurses, physicians, taxpayers, consumers and businesses oppose 186.

**PLEASE VOTE "NO."**

**JAKE HANSEN**

*Director of Government Affairs  
The Seniors Coalition*

**DR. DAVID R. HOLLEY, M.D.**

*Member, Board of Directors, California Chamber of Commerce*

**RICHARD C. CARLSON**

*Economist, Spectrum Economics*

# Health Services. Taxes. Initiative Constitutional Amendment and Statute.

# 186

## Argument Against Proposition 186

### PROPOSITION 186: BAD MEDICINE FOR CALIFORNIANS.

"This initiative is exactly the wrong medicine for California's recovering economy. It's a budget buster and a job killer."

GOVERNOR PETE WILSON

"We all want to achieve universal health care coverage for Californians, but this measure is not the right way to go."

TREASURER KATHLEEN BROWN

Californians from every walk of life and every corner of the state, including Governor Wilson, Treasurer Brown, Democrats, Republicans, Independents, nurses, senior citizens, consumers, taxpayers, businesses and physicians, oppose Proposition 186. We need health care reform, but this measure creates more problems than it solves and jeopardizes health care quality. Proposition 186 deserves your "NO" vote.

### A GOVERNMENT-RUN EXPERIMENT WITH OUR HEALTH CARE

Under this proposal, most Californians would *LOSE PRIVATE HEALTH COVERAGE* and instead, be forced to get coverage through a massive new government-run bureaucracy—a completely untested and experimental system in the United States.

### \$40 BILLION IN NEW TAXES

According to the Legislative Analyst, Proposition 186 will *COST \$40 BILLION IN NEW TAXES, INCLUDING HUGE INCREASES IN INCOME TAXES AND PAYROLL TAXES*. That's the *BIGGEST TAX INCREASE IN CALIFORNIA HISTORY* and there are *NO LIMITS* on how high taxes could be raised!

Nothing in this proposal prohibits the politicians from *RAISING TAXES AGAIN AND AGAIN* to pay for this huge new health care experiment.

### MASSIVE INCOME TAX INCREASES FOR CALIFORNIANS

A study by the California Taxpayers' Association has determined that under Proposition 186, a married couple filing jointly with an income of \$32,000 (two children, standard deductions) *WOULD PAY 229% MORE IN CALIFORNIA INCOME TAX!*

### HURTS SMALL BUSINESSES. 300,000 LOST JOBS?

Spectrum Economics, a respected California economic consulting firm, concludes that over *300,000 JOBS COULD BE LOST* over the next four years because of the huge new costs of the payroll tax. *SMALL BUSINESSES* would be hit hardest and many could be forced to *GO OUT OF BUSINESS, LAY OFF EMPLOYEES OR LEAVE CALIFORNIA*.

We can't afford to send more California jobs to Arizona, Nevada and Utah.

### HUGE FUNDING DEFICIT ON TOP OF NEW TAXES?

Spectrum Economics found that even with the \$40 billion in new taxes, this government-run system, when fully implemented, could face *SHORTFALLS OF SOME \$48 BILLION*.

A \$48 billion shortfall could *DOUBLE THE NEW INCOME AND PAYROLL TAXES* imposed by the measure.

### BUREAUCRATS AND "HEALTH CZAR" MAKE HEALTH CARE DECISIONS

An elected "HEALTH CZAR," with billions to spend on state and regional bureaucracies to regulate health care, makes crucial health care decisions, can stop new facilities and purchases of equipment and will *IMPOSE STATEWIDE LIMITS ON HEALTH CARE SPENDING*.

With a potential deficit of \$48 billion, the "CZAR" can ration and eliminate services and institute co-payments with *LITTLE LEGISLATIVE OVERSIGHT, RATIONING, LIMITED CHOICES AND LONG LINES* are not the health care reforms Californians want, especially when this vague measure may allow many non-Californians, who don't pay the taxes, to get coverage.

Join us in voting *NO* on Proposition 186, the *HEALTH "INSECURITY" ACT*.

**LARRY McCARTHY**  
*President, California Taxpayers' Association*

**CAROL DENTON, R.N.**  
*Executive Director, Organization of Nurse Executives/California*

**MARTYN B. HOPPER**  
*State Director, National Federation of Independent Business/California*

## Rebuttal to Argument Against Proposition 186

### CONSUMER GROUPS SUPPORT PROPOSITION 186

Consumers Union, non-profit publisher of *Consumer Reports*, believes that 186 will provide quality coverage at an affordable price, reduce waste, and keep insurance companies out of critical decisions about medical treatment.

Many impartial organizations join Consumers Union in supporting 186, including the League of Women Voters of California, and AARP.

The current health system is riddled with administrative waste, mostly created by the insurance industry, the major opponents of 186.

### FAMILIES WILL PAY LESS FOR HEALTH CARE

Most individuals and families will get more care. They will pay less for it because the 2.5% surcharge on their taxable income completely *REPLACES* the health insurance premiums, deductibles, and many out-of-pocket expenses they now pay.

A married couple (two children, standard deductions) earning \$32,000 will pay only \$57 *PER MONTH FOR FULL HEALTH COVERAGE*. And they won't pay for health coverage in their automobile and homeowners insurance.

### 186: GOOD FOR OUR ECONOMY

Businesses typically pay 10-17% of payroll for health insurance. Under 186, large businesses pay 8.9%, small businesses as little as 4.4%. Also, business could save 30-50% on workers compensation, since health care will already be covered.

Any additional tax increase requires a two-thirds legislative vote.

### 186 GIVES YOU:

- comprehensive coverage even if you lose or change your job,
- choice of any doctor or hospital,
- long term care and prescription drugs,
- all health decisions by health care professionals,
- security that you won't lose your life savings to medical bills.

**HARRY SNYDER**  
*Co-Director, West Coast Regional Office, Consumers Union*

**MARLYS ROBERTSON**  
*President, League of Women Voters of California*

**KRISTA FAREY, M.D.**  
*Legislative Director, California Physicians Alliance*



## Illegal Aliens. Ineligibility for Public Services. Verification and Reporting. Initiative Statute.

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### Official Title and Summary Prepared by the Attorney General ILLEGAL ALIENS. INELIGIBILITY FOR PUBLIC SERVICES. VERIFICATION AND REPORTING. INITIATIVE STATUTE.

- Makes illegal aliens ineligible for public social services, public health care services (unless emergency under federal law), and public school education at elementary, secondary, and post-secondary levels.
- Requires various state and local agencies to report persons who are suspected illegal aliens to the California Attorney General and the United States Immigration and Naturalization Service. Mandates California Attorney General to transmit reports to Immigration and Naturalization Service and maintain records of such reports.
- Makes it a felony to manufacture, distribute, sell or use false citizenship or residence documents.

### Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Annual savings of roughly \$200 million to the state and local governments (primarily counties), due to reduced costs for public social services, health care and higher education.
- Annual administrative costs of tens of millions of dollars (potentially more than \$100 million in the first year) to the state and local governments (primarily counties and public schools) to verify citizenship or legal status of students and parents and persons seeking health care and/or social services.
- Places at possible risk billions of dollars annually in federal funding for state and local education, health and welfare programs due to conflicts between the measure's provisions and federal requirements.

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### Analysis by the Legislative Analyst

#### Background

According to the 1990 census, more than one in five Californians were born in another country. The number of California residents who are foreign-born now totals about 7 million. Currently, about 300,000 new residents enter the state each year from foreign countries. Federal law governs immigration, and the U.S. Immigration and Naturalization Service (INS) administers and enforces those laws.

#### Illegal Immigrants

The INS estimates that California's foreign-born population as of April 1994 included roughly 1.6 million unauthorized immigrants and that this number has been increasing by about 125,000 each year. Other terms applied to unauthorized immigrants include "illegal immigrants" and "illegal aliens."

Most illegal immigrants who come to California enter the country without any authorization. However, at least a third of illegal immigrants in California originally entered the country legally, but on a temporary basis—as a tourist or student, for example—and then remained after their departure date. An illegal immigrant may later become "legal" by receiving permission from the INS to remain in the country temporarily or as a permanent resident. The amnesty granted by the federal 1986 Immigration Reform and Control Act legalized

about 1.6 million former illegal immigrants in California. Illegal immigrants also may become legalized through regular immigration processes or by claiming asylum from persecution in their home country.

**Health and Welfare Benefits.** Illegal immigrants generally are not eligible for welfare grants. However, illegal immigrants do qualify for some social services and health care programs that are available to all Californians. For instance:

- Any child in need may receive child welfare services or foster care.
- Illegal immigrants may receive some of the health care services available to other poor people.

**Public Education.** Any child who lives in California may attend public schools through high school. The U.S. Supreme Court has determined (in the case of *Plyler versus Doe*) that excluding children who are illegal immigrants from public schools violates the federal constitution. This decision, however, does not apply to publicly funded higher education. Currently, illegal immigrants may attend public colleges and universities in California. However, the University of California (UC) and the California Community Colleges (CCC) generally require students who are identified as illegal immigrants to pay the higher tuition charged to nonresident students. The California State University (CSU) currently does not charge higher fees based on the legal status of the student.

**Citizen Children.** Under the U.S. Constitution, children born in this country to illegal immigrant parents are U.S. citizens—just like any other child born here. Many illegal immigrant families in California have citizen children, who have the same rights and are entitled to the same benefits as any other citizen.

### **Verifying a Person's Legal Status**

The United States has no universal national identity card, so documenting citizenship or legal immigration status can be complex, even for native-born citizens. Generally, several documents are needed—for example, a U.S. birth certificate to establish the basis for citizenship and a driver's license with a photo to establish identity. However, many people (especially children) do not have a driver's license or other official photo identification. Documenting citizenship for these people may involve additional steps, such as verifying the identity of a child's parents.

Most legal immigrants have an identification from the INS to verify their status, such as a "green card" issued to immigrants granted permanent residence in the U.S. The INS has developed a computer system that government agencies and employers can use to check the validity of most types of immigration documents. No similar nationwide automated system exists to check the validity of birth certificates, which are issued by thousands of local agencies throughout the country.

### **Federal Program Requirements**

State and local agencies must comply with a variety of federal laws in order to receive federal funds for many education, health and welfare programs. These laws often set out who is eligible for a program, procedures for granting or denying benefits or services, and requirements for keeping records confidential. For example, the Family Educational Rights and Privacy Act (FERPA) generally prohibits schools that receive federal funds from disclosing information in student records without parental consent.

### **Proposal**

Generally, this initiative prohibits state and local government agencies from providing publicly funded education, health care, welfare benefits, or social services to any person that they do not verify as either a U.S. citizen or a person legally admitted to the U.S. The measure also requires state and local agencies to report suspected illegal immigrants to the INS and certain state officials. These changes are described below.

### **Verification Requirements**

The measure does not set out any specific requirements as to how verification of citizenship or legal presence in the United States would be done. As a result, individual public agencies and institutions could choose a variety of verification methods. They might require only a birth certificate or INS document, or they also might require a driver's license or other official photo identification. A more thorough verification process would attempt to check the validity of immigration documents and possibly also birth certificates with the issuing agency.

### **Exclusion of Suspected Illegal Immigrants from Public Schools**

Starting on January 1, 1995, the initiative requires every school district to verify the legal status of every child enrolling in the district for the first time. By

January 1, 1996, each school district must also verify the legal status of children already enrolled in the district and of the parents or guardians of all students. The measure requires school districts to take the following steps if they "reasonably suspect" that a student, parent, or guardian is not legally in the U.S.:

- Within 45 days, report the person to the INS, the State Superintendent of Public Instruction, the California Attorney General, and to the affected parent or guardian.
- Provide 90 days of additional instruction to a suspected illegal immigrant student in order to accomplish an orderly transition to a school in the student's country of origin. After this 90-day period the student no longer could attend public school in California.

The exclusion of suspected illegal immigrant children from public schools would be in direct conflict with the U.S. Supreme Court's ruling in *Plyler versus Doe* that guarantees access to public education for all children in the United States. Consequently, this provision of the initiative would not be effective. Under the *Plyler* decision the measure still might require school districts to verify citizenship and legal status and to report suspected illegal immigrants, even though districts could not exclude any students from schools. Alternatively, the courts might decide that the verification and reporting requirements have an unacceptable "chilling effect" on school attendance and therefore invalidate these requirements.

### **Exclusion of Suspected Illegal Immigrants from Public Colleges and Universities**

The initiative prohibits public colleges and universities from allowing students to attend who are not legally authorized to be in the United States. The affected institutions include the UC, the CSU, and the CCC. The measure requires public colleges and universities to verify the citizenship or legal status of each student at the beginning of every term or semester after January 1, 1995. If the college or university reasonably suspects that a student or applicant for admission is an illegal immigrant, then it must report its findings within 45 days to the INS, the State Superintendent of Public Instruction, the California Attorney General, and to the affected student or applicant.

### **Restrictions on Health Care and Social Services for Suspected Illegal Immigrants**

The measure requires public agencies and publicly funded health care facilities to verify that a person is a U.S. citizen or is legally authorized to be in the United States before providing that person with social services (including welfare benefits) or health care services, except for emergency health care required by federal law. If an agency or health care facility reasonably suspects that an applicant for benefits or services is an illegal immigrant, then it must report its finding to the INS, the California Attorney General, the State Department of Social Services, or the Department of Health Services, as appropriate, and to the affected person. The reporting agency or facility also must provide any additional information that the other agencies request.

### **Reporting Arrests Involving Suspected Illegal Immigrants**

The measure requires every state and local law enforcement agency to attempt to verify the legal status of every arrestee who is suspected of being in the United States illegally. The agencies would have to report

anyone they arrest who they suspect is an illegal immigrant to the INS and to the State Attorney General. The initiative also requires the Attorney General to maintain records of these reports.

### **New Crimes for Making or Using False Documents**

The initiative creates two new state felonies for manufacture or use of false documents to conceal true immigration or citizenship status. The penalties for these crimes would be prison terms of five years or fines of up to \$75,000 (for manufacturing) or up to \$25,000 (for use). The manufacture or use of false immigration or citizenship documents currently are federal crimes. Forgery of state documents, such as driver's licenses, or obtaining them by fraud is currently a state crime.

### **Fiscal Effect**

The most significant fiscal effects of this initiative fall into the following three categories:

- **Program Savings.** The state and local governments (primarily counties) would realize savings from denying certain benefits and services to persons who cannot document their citizenship or legal immigration status. These savings could be in the range of \$200 million annually, based on the current estimated use of these benefits and services by illegal immigrants.
- **Verification Costs.** The state, local governments, and schools would incur significant costs to verify citizenship or immigration status of students, parents, persons seeking health care or social services, and persons who are arrested. Ongoing annual costs could be in the tens of millions of dollars, with first-year costs considerably higher (potentially in excess of \$100 million).
- **Potential Losses of Federal Funds.** The measure places at risk up to \$15 billion annually in federal funding for education, health and welfare programs due to conflicts with federal requirements.

All of these fiscal effects are subject to a great deal of uncertainty. The use of services by illegal immigrants can only be roughly estimated. In addition, the measure's fiscal effects could depend on legal interpretations of the measure.

Below, we discuss the significant fiscal impacts of the measure.

### **Health Care Savings**

Federal law requires health facilities to provide necessary emergency care to any person in need regardless of income or legal status. This measure would not restrict this care. The measure, however, would place restrictions on nonemergency care provided with public funds.

**Medi-Cal.** The Medi-Cal program provides a full range of medical services to poor families with children, as well as to poor elderly and disabled people. The program is funded jointly by the state and the federal government. Generally, illegal immigrants are eligible only for emergency Medi-Cal services. However, California chooses to provide (using only state funds) prenatal care to pregnant women and nursing home care to elderly or disabled persons who are illegal immigrants. The measure would eliminate these services, which would result in an annual state savings of about \$100 million.

**County Indigent Health Care.** Counties provide basic medical services to poor residents who have no insurance and are not covered by another program (such as Medi-Cal). This measure would prohibit counties from

providing nonemergency medical care to anyone whose citizenship or legal presence in the United States could not be verified. Denying these services to illegal immigrants would result in savings to counties and the state. However, reductions in special federal payments to hospitals would offset a significant portion of the county savings—possibly half. Hospitals receive these federal payments for serving large numbers of poor people without compensation. The net annual savings, after taking into account the reduced federal payments, would be in the tens of millions of dollars to counties and several million dollars to the state.

**Denying Some Services May Increase Future Costs.** Denying some medical services to illegal immigrants could result in future increased state and local health care costs. For example, eliminating prenatal services to illegal immigrant women could result in higher Medi-Cal costs for their infants, who would be citizens. In addition, failure to treat and control serious contagious diseases, such as tuberculosis, among illegal immigrants could increase future costs to treat the disease in the general population.

### **Social Services**

Currently, any child in need may receive child welfare services or foster care benefits under Aid to Families with Dependent Children (AFDC). These programs are supported by federal, state, and county funds. Initially, counties provide foster care for illegal immigrant children at their own expense. After the INS indicates that a child in foster care will not be deported, the state and the federal government share in the cost.

This measure would prohibit counties and the state from providing these services and benefits to children whose citizenship or legal status has not been verified. Withholding these services would result in annual savings of roughly \$50 million to the counties and the state.

### **Public Schools**

Based on the INS estimate of the total illegal immigrant population in California, we estimate that roughly 300,000 students in California public schools, out of a total of 5.3 million, are illegal immigrants. Excluding all of these students from public schools could save the state up to \$1.2 billion annually. However, the U.S. Supreme Court decision in *Plyler versus Doe* held that illegal immigrants could not be denied a public education, so these savings would not be realized.

### **Public Colleges and Universities**

The UC charges identified illegal immigrant students nonresident tuition. The CCC charges these students nonresident tuition if they are taking courses for credit. This tuition generally covers the state's cost of educating these students. Consequently, there would not be any net savings from excluding these already-identified students from those institutions. However, there would be savings from this measure if more students who are currently paying resident tuition are identified as illegal immigrants and excluded as a result of more frequent and/or thorough verification.

The CSU and the CCC (for noncredit courses) do not charge students nonresident tuition on the basis of the student's legal status. The CSU's annual cost per student is about \$3,000 higher than the amount of resident fees. The CCC's annual net cost per noncredit student is \$1,500. Consequently, excluding illegal immigrant students from the CSU and from noncredit courses at the CCC would result in savings.

Overall, this measure would result in savings to public colleges and universities that could be up to tens of millions of dollars annually.

#### **Potential Risk of Losing Federal Funds**

The measure requires school districts to report students who are suspected illegal immigrants to the INS and the state Attorney General. Making these reports without parental consent appears to violate the FERPA. Compliance with FERPA is a condition of receiving federal education funds, which total about \$2.3 billion annually to school districts in California. The Secretary of the U.S. Department of Education has indicated that the reporting requirement in this measure could jeopardize the ability of California school districts to receive these funds.

Public colleges and universities in California receive at least \$1.1 billion in federal funds subject to FERPA requirements. For these institutions, FERPA prohibits release of student information without the student's consent. The measure's reporting requirements also would put these funds in jeopardy.

Federal matching funds for the AFDC program and the Medi-Cal program also would be put at risk by the measure's reporting requirements. Existing federal and state law require verification of legal status in order for persons to qualify for most benefits and services provided by these programs. However, federal regulations require the state and counties to keep confidential the information provided by applicants in order to continue receiving federal matching funds. The total amount of federal funds at stake is about \$3 billion in the AFDC program, and more than \$9 billion in the Medi-Cal program.

Other provisions in the measure may conflict with federal laws that (1) establish procedures agencies must follow before they can deny health or welfare benefits to anyone and (2) make some immigrants who do not have formal legal status eligible for benefits.

In total, the measure places at risk about \$15 billion of federal funds. Given the magnitude of this potential loss, the state and federal governments would likely seek ways to avoid, or at least minimize, the loss. A solution, however, would likely require changes in state and/or federal laws.

#### **Verification and Reporting Costs**

This measure would impose significant administrative costs on the state and local governments to meet its verification provisions. These costs could vary considerably, depending on the verification methods used.

**Public Schools.** School districts could incur large costs in 1995 in order to meet the measure's deadline of January 1, 1996 to verify all students and their parents. These one-time costs could range anywhere from tens of millions of dollars to in excess of \$100 million. Ongoing costs for verification would be less, potentially in the tens of millions of dollars annually statewide.

**Public Colleges and Universities.** These institutions currently review the legal status of many students, primarily to determine whether they qualify for resident tuition. The measure, however, requires these institutions to verify the legal status of all of their students (1.9 million statewide) at the beginning of each semester or term. This requirement probably would cost public colleges and universities a total of at least several million dollars annually.

**Social Service Agencies.** County welfare offices currently must verify the legal status of persons applying for welfare benefits in the AFDC or county general assistance programs. There would be some additional costs, possibly several million dollars annually statewide, to verify legal status in a variety of smaller programs, such as child welfare services.

**Publicly Funded Health Care Facilities.** The legal status of Medi-Cal recipients must be verified under current law (generally by the county welfare office or the Social Security Administration). This measure also requires verification of persons seeking other publicly funded health services, such as county indigent health care and various public health services. The cost of this verification process to counties and UC hospitals could be up to several million dollars annually.

#### **Law Enforcement**

The costs to local law enforcement agencies to report suspected illegal immigrants to the Attorney General could be up to \$5 million annually. The state costs to process the information from local law enforcement and other reporting agencies (such as school districts) would be at least several millions of dollars annually.

#### **New Crimes**

By creating new state crimes for making or using false documents to conceal legal status, this measure could increase state and local costs to arrest, prosecute, and incarcerate violators. However, these activities already constitute federal crimes and also may be covered under existing state laws. The state and local governments would incur additional costs only to the extent that more persons are apprehended for these crimes and prosecuted under state law. However, the state cost would be about \$2 million annually for every hundred persons incarcerated. These costs could be offset in part by revenue from fines.

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**For the text of Proposition 187 see page 91**

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## Illegal Aliens. Ineligibility for Public Services. Verification and Reporting. Initiative Statute.

### Argument in Favor of Proposition 187

California can strike a blow for the taxpayer that will be heard across America; in Arizona, in Texas and in Florida in the same way Proposition 13 was heard across the land.

Proposition 187 will go down in history as the voice of the people against an arrogant bureaucracy.

**WE CAN STOP ILLEGAL ALIENS.**

If the citizens and the taxpayers of our state wait for the politicians in Washington and Sacramento to stop the incredible flow of ILLEGAL ALIENS, California will be in economic and social bankruptcy.

We have to act and ACT NOW! On our ballot, Proposition 187 will be the first giant stride in ultimately ending the ILLEGAL ALIEN invasion.

It has been estimated that ILLEGAL ALIENS are costing taxpayers in excess of 5 billion dollars a year.

While our own citizens and legal residents go wanting, those who choose to enter our country ILLEGALLY get royal treatment at the expense of the California taxpayer.

**IT IS TIME THIS STOPS!**

Welfare, medical and educational benefits are the magnets that draw these ILLEGAL ALIENS across our borders.

Senator Robert Byrd (D-West Virginia), who voted against federal reimbursement for state funds spent on ILLEGAL ALIENS, said "states must do what they can for themselves".

**PROPOSITION 187 IS CALIFORNIA'S WAY.**

Should those ILLEGALLY here receive taxpayer subsidized education including college?

Should our children's classrooms be over-crowded by those who are ILLEGALLY in our country?

Should our Senior Citizens be denied full service under Medi-Cal to subsidize the cost of ILLEGAL ALIENS?

Should those ILLEGALLY here be able to buy and sell forged documents without penalty?

Should tax paid bureaucrats be able to give sanctuary to those ILLEGALLY in our country?

If your answer to these questions is NO, then you should support Proposition 187.

The federal government and the state government have been derelict in their duty to control our borders. It is the role of our government to end the benefits that draw people from around the world who ILLEGALLY enter our country. Our government actually entices them.

Passage of Proposition 187 will send a strong message that California will no longer tolerate the dereliction of the duty by our politicians.

**Vote YES on Proposition 187.**

The Save Our State Coalition is comprised of Democrats, Republicans and Independents. It includes all races, colors and creeds with the same common denominator. We are American, by birth or naturalization; we are Americans!

We were outraged when our State Legislature voted on July 5th to remove dental care as a medical option and force the increase of the cost of prescription drugs for Senior Citizens. Then, as a final slap in the face, they voted to continue free pre-natal care for ILLEGAL ALIENS!

**Vote YES ON PROPOSITION 187. ENOUGH IS ENOUGH!**

**ASSEMBLYMAN DICK MOUNTJOY**

*Author of Proposition 187*

**RONALD PRINCE**

*Chairman of the "Save Our State" Committee*

**MAYOR BARBARA KILEY**

*Co-Chair of the "Save Our State" Committee*

### Rebuttal to Argument in Favor of Proposition 187

Proposition 187 promoters claim their initiative would go down in history. We agree.

- **PROPOSITION 187 IS ONE OF THE MOST POORLY DRAFTED INITIATIVES IN CALIFORNIA'S HISTORY.**

*"The initiative is filled with provisions that collide with state and federal laws, state and U.S. constitutional protections and with state and federal court rulings."*

—California Senate Office of Research

- **PROPOSITION 187 ALSO MAY SET A RECORD FOR COSTING TAXPAYERS \$10 BILLION!**

*"Because the requirements of the S.O.S. initiative (187) violate federal Medicaid law, the state's entire Medi-Cal program would be in jeopardy of losing all regular Medicaid funding. . ."*

*"To make up for the upwards of \$7 billion in lost federal funds, state spending on Medi-Cal would have to double."*

—National Health Law Program

*" . . . school districts will most likely be required to disclose information from education records in violation of FERPA (Family Educational Rights and Privacy Act) in order to comply with the proposed State law (Proposition 187)."*

*As a result, "schools would no longer be able to receive Federal education funds."*

—U.S. Secretary of Education Richard Riley

California's Senate Office of Research estimates the loss to our public schools and colleges could exceed \$3 billion.

Proposition 187 would go down in history, all right. If approved, 187 would be long remembered as the initiative that **TOOK A BAD SITUATION AND MADE IT MUCH WORSE—\$10 BILLION WORSE!**

Meanwhile, **PROPOSITION 187 DOES ABSOLUTELY NOTHING TO BEEF UP ENFORCEMENT AT THE BORDER or CRACK DOWN on EMPLOYERS WHO HIRE UNDOCUMENTED WORKERS.**

**VOTE NO on PROPOSITION 187!**

**PAT DINGSDALE**

*President, California State PTA*

**MICHAEL B. HILL, M.D.**

*President, American College of Emergency Physicians, California Chapter*

**HOWARD L. OWENS**

*Legislative Director, Congress of California Seniors*



# Illegal Aliens. Ineligibility for Public Services. Verification and Reporting. Initiative Statute.

# 187

## Argument Against Proposition 187

Something must be done to stop the flow of illegal immigrants coming across the border.

Unfortunately, PROPOSITION 187 DOESN'T DO A THING TO BEEF UP ENFORCEMENT AT THE BORDER. It doesn't even crack down on employers who hire illegal immigrants.

Illegal immigration is a REAL problem, but Proposition 187 is NOT A REAL SOLUTION. It's not even a start in the right direction.

Proposition 187 would only COMPOUND EXISTING PROBLEMS and cause a host of new ones—EXPENSIVE ones! PROPOSITION 187 COULD END UP COSTING TAXPAYERS \$10 BILLION.

Education, health care and legal analysts all come to the same conclusion. Because Proposition 187 is POORLY DRAFTED, it directly conflicts with several important federal laws. As a result, CALIFORNIA COULD LOSE BILLIONS in FEDERAL FUNDING.

Even the U.S. Secretary of Education has concluded Proposition 187 could cause California schools to lose federal funds. Our schools could lose more than \$3 BILLION.

Health care experts have further determined Proposition 187 could cost California \$7 BILLION in lost federal funding for Medi-Cal for seniors and other legal residents.

PROPOSITION 187 WOULD TURN OUR SCHOOLS INTO IMMIGRATION OFFICES.

It requires public school officials to thoroughly verify the citizenship of EVERY child and EVERY parent—more than 10 MILLION people.

The costs and time involved in undertaking this PAPERWORK NIGHTMARE is impossible to calculate. Schools already are hurting from budget cuts. Proposition 187 would divert even more funds away from classrooms.

PROPOSITION 187 WOULD KICK 400,000 KIDS OUT OF SCHOOL AND ONTO THE STREETS.

An estimated 400,000 KIDS would be kicked out of school, but Proposition 187 WON'T result in their deportation. Just what we need—400,000 kids hanging out on street corners. We all know what happens to kids who don't finish school.

Is this supposed to reduce CRIME and GRAFFITI? PROPOSITION 187 CREATES A POLICE STATE MENTALITY.

It forces public officials to deny vital services to anyone they SUSPECT might not be a legal resident. But Proposition 187 doesn't define the basis for such suspicion. Is it the way you speak? The sound of your last name? The shade of your skin?

PROPOSITION 187 THREATENS THE HEALTH OF ALL CALIFORNIANS.

It would forbid doctors and nurses from giving immunizations or basic medical care to anyone SUSPECTED of being an illegal immigrant.

Every day, hundreds of thousands of undocumented workers HANDLE OUR FOOD SUPPLY in the fields and restaurants. Denying them basic health care would only SPREAD COMMUNICABLE DISEASES THROUGHOUT OUR COMMUNITIES and place us ALL at risk.

PROPOSITION 187 COULD COST TAXPAYERS \$10 BILLION, BUT IT WON'T STOP THE FLOW OF ILLEGAL IMMIGRANTS OVER THE BORDER.

Illegal immigration is ILLEGAL. Isn't it time we enforce the law?

Proposition 187 doesn't beef up enforcement at the border or crack down on the employers who continue to hire illegal immigrants.

Send the politicians a message. Tell them to start enforcing the law. VOTE NO on PROPOSITION 187.

**SHERMAN BLOCK**

*Sheriff, Los Angeles County*

**D. A. ("DEL") WEBER**

*President, California Teachers Association*

**RALPH R. OCAMPO, M.D.**

*President, California Medical Association*

## Rebuttal to Argument Against Proposition 187

The argument against Proposition 187 is emotional, thoughtless and pure mindless babble.

The real opponents of Proposition 187, the special interests who have pledged millions of dollars to defeat our initiative, have a deep financial interest in continuing the present policy. Remember. Illegal aliens are a big business for public unions and well connected medical clinics. You pay the bills, they reap the benefits.

These monied interests have the unmitigated gall to tell the California voter that by ending illegal immigration the cost to the taxpayer will skyrocket! Are they out of their minds?

Their argument states that passage of Proposition 187:

"doesn't crack down on employers."

FEDERAL LAW ALREADY PROHIBITS HIRING ILLEGALS.

"187 could end up costing taxpayers \$10 billion."

NONSENSE. HOW CAN GETTING RID OF THE PRESENT COSTS END UP COSTING MORE?

they say, "187 is badly written." NONSENSE.

THE SPECIAL INTERESTS ATTACKING PROPOSITION 187 INCLUDE THE CALIFORNIA TEACHERS ASSOCIATION AND THE CALIFORNIA MEDICAL ASSOCIATION. BOTH CONSTITUTE THE STATE'S BIGGEST LOBBYING GROUPS WHO OPPOSE US. THEY PROTECT THEIR OWN INTERESTS—NOT YOURS.

Don't be deceived by greedy, special interests that benefit from the failures in our immigration policies.

Why should we give more comfort and consideration to illegal aliens than to our needy American citizens? Many aged and mentally impaired Americans go without government largesse. Isn't it time to consider our citizens?

The groups spending millions to maintain the failures of the status quo only do so for their own selfishness. VOTE YES ON PROPOSITION 187.

**ASSEMBLYMAN DICK MOUNTJOY**

*Author, Proposition 187/S.O.S.*

**CONGRESSMAN JAY KIM**

*Advisor, Proposition 187/S.O.S.*

**JESSE LAGUNA**

*Chairman, Border Solution Task Force*



## **Smoking and Tobacco Products. Local Preemption. Statewide Regulation. Initiative Statute.**

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### **Official Title and Summary Prepared by the Attorney General SMOKING AND TOBACCO PRODUCTS. LOCAL PREEMPTION. STATEWIDE REGULATION. INITIATIVE STATUTE.**

- Repeals and preempts local smoking and tobacco regulations. Repeals and replaces existing statewide smoking and tobacco regulations. Permits amendment of tobacco regulations by two-thirds vote of Legislature.
- Bans public smoking with significant exceptions. Permits smoking sections in restaurants and employee cafeterias with conditions. Bars not regulated. Permits smoking in private offices, and business conference rooms with occupants' consent. Exempts from smoking regulations gaming clubs, bingo establishments, racetracks, sports facility private boxes and smoking lounges.
- Regulates location of tobacco vending machines and billboards. Increases penalties for tobacco purchases by minors.

#### **Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:**

- Likely, but unknown, annual increase in state and local government health care costs and state tobacco tax revenues.
  - State enforcement costs of less than \$1 million annually.
-

## Analysis by the Legislative Analyst

### Background

Both the state and local governments have the ability to regulate smoking in California. A new state law regulating smoking in workplaces was enacted in July 1994 and becomes effective January 1, 1995 (hereafter referred to as "current state law").

The following is a brief discussion of current state and local laws addressing the use and/or sale of tobacco products.

- **Workplaces.** Current state law bans smoking in enclosed workplaces. There are two general exceptions to this ban: (1) smoking is allowed in office break rooms (if ventilation standards are met and the air is exhausted directly to the outside) and (2) smoking is allowed at workplaces with less than six employees (if ventilation standards are met and the air is exhausted directly to the outside, all employees in the smoking area consent, and the area is not accessible to minors). Current state law exempts certain places from the workplace smoking ban. For instance, smoking is allowed in tobacco shops, portions of hotel lobbies, and bars. Figure 1 provides a complete list of exceptions.
- **Restaurants.** Current state law defines restaurants as workplaces. As such, smoking is banned (subject to the same general exceptions noted above).
- **Bars.** As shown in Figure 1, smoking would be allowed in bars for about two years.
- **Public Places.** Most public places are also workplaces and, therefore, are covered under the state workplace restrictions described above. Public places not covered under the state workplace provision include: (1) unenclosed workplaces and (2) those places listed in Figure 1. In addition, there are public places which are not workplaces (such as public plazas and sidewalks). There are a variety of local laws that restrict smoking in these public places. For example, the City and County of San Francisco prohibits smoking in Candlestick Park sports stadium and Stanislaus County prohibits smoking in hotels and motels (without exception).
- **Vending Machines.** Some local laws restrict or prohibit the sale of tobacco products from vending machines. Prior to 1991, 49 cities had passed laws that either ban or place restrictions on the sale of tobacco products from vending machines. Since then, 43 cities have passed laws banning such vending machines, and 53 cities have passed laws placing some restriction on the use and accessibility of such vending machines.
- **Signs and Billboards.** Current state law requires the posting of signs indicating smoking and nonsmoking areas for all workplaces. We are not aware of any restrictions on billboard advertising for tobacco products.

- **Enforcement.** Local governments enforce smoking restrictions in the workplace and other areas, using city inspectors, county health departments, and/or law enforcement officers. The State Department of Industrial Relations is required to investigate a complaint only if the employer is found guilty of violating the state workplace restrictions three times within the previous year.

Figure 1

### Current State Law Exceptions to Workplace Smoking Ban<sup>a</sup>

- 65 percent of hotel and motel guest rooms, hotel and motel meeting rooms—unless employees are working, and up to 25 percent of the area of hotel and motel lobbies (50 percent if lobby is under 2000 square feet).
- Tobacco shops and private smokers' lounges.
- Cabs of trucks, if no nonsmoking employees are present.
- Warehouses with more than 100,000 square feet of floor space and 20 or fewer full-time employees.
- Gaming clubs, bars and taverns, only until January 1, 1997, contingent on the adoption of indoor air standards.
- Theatrical production sites, if smoking is an integral part of the production.
- Medical research or treatment sites, if smoking is part of the research and treatment.
- Patient smoking areas in long-term health care facilities.
- Private residences, except when used as a licensed family day care home.

<sup>a</sup> Local governments may, if they choose, impose smoking restrictions in these areas. Many local governments already have done so.

### Proposal

This measure—which would take effect July 1, 1995—establishes statewide regulations governing the sale, use, and possession of tobacco products. These regulations would take the place of existing local and state smoking and tobacco-related laws, and local governments would be prevented from passing any laws—either more or less restrictive—in these areas.

The statewide smoking regulations under this measure generally are less restrictive than current laws. Specifically, the measure establishes the following regulations:

- **Workplaces.** Under the measure, smoking would be allowed in workplaces only in the following areas: (1) in a private office or, with the consent of all persons present, in a conference room, (2) in an employee cafeteria where smoking is confined to a single area not exceeding 25 percent of the available seating capacity, (3) in designated smoking lounges, (4) in company cars only with the consent of all those present. In the first three cases above, smoking would be allowed only if certain ventilation requirements (less restrictive than current state law) were met and maintained. Employers, however, could still choose to operate smokefree workplaces.
- **Restaurants.** The measure would allow smoking in designated areas of up to 25 percent of the seating capacity in a restaurant, if certain ventilation requirements (less restrictive than current state law) were met and maintained. If smoking is allowed, signs must be posted at public entrances stating that smoking and nonsmoking sections are available. In addition, smoking would be allowed in restaurant rooms used for private functions. Restaurant owners, however, could still choose to operate smokefree restaurants.
- **Bars.** The measure would allow smoking in bars. Owners, however, could still choose to operate smokefree bars.
- **Public Places.** The measure prohibits smoking in public places, except in (1) hotel and motel rooms (unless rooms are designated nonsmoking by management), (2) hotel and motel conference or meeting rooms when used for private functions, (3) up to 25 percent of the concourse area of a bowling alley or in the lobby area of any hotel or motel, (4) businesses that specialize in the manufacture or sale of tobacco products, and (5) gaming clubs, bingo parlors, racetracks, and private boxes and separate smoking lounges in indoor and outdoor sports arenas. Owners or operators of these public places, however, could still choose to operate smokefree establishments.
- **Signs and Billboards.** The measure requires the posting of signs to indicate areas designated as smoking or nonsmoking in restaurants, the workplace, or public places. In addition, anyone selling tobacco products would be required to post signs stating that minors are prohibited from buying such products. The measure also would prohibit billboard advertisements of tobacco products within 500 feet of a public or private elementary, junior high, or high school.
- **Vending Machines.** Under the measure, sale of tobacco products from vending machines would be regulated. Such vending machines would not be allowed unless equipped with an electronic switch that would be activated by a retailer prior to each purchase. The electronic switch, however, would not be required on vending machines located in areas

not open to the general public (such as in a factory, business, or office) or in public premises where minors are prohibited from entering.

- **Enforcement.** Under the measure, enforcement of smoking violations in the workplace would be the responsibility of the state's job safety and health enforcement agency—the Department of Industrial Relations. Local agencies would enforce all other portions of the measure. The measure requires local law enforcement to conduct annual unannounced inspections at randomly selected locations where tobacco products are sold or distributed. The measure establishes new state fines and increases existing state fines for sale of tobacco products to minors. In addition, the measure requires the state Department of Justice to prepare a report for submittal to the federal government regarding the state's efforts at reducing minors' access to tobacco products.

The measure could be amended with a two-thirds vote by the Legislature and approval by the Governor. By comparison, current state law can be amended with a majority vote by the Legislature and approval by the Governor.

#### **Fiscal Effect**

This measure would have various fiscal impacts on state and local governments. In general, these effects would result from impacts on (1) the level of smoking in the state and (2) enforcement costs.

#### **Impacts from Changes in Smoking**

This measure would result in a less restrictive smoking environment than would be the case under current state law. These changes likely would lead to a higher level of smoking in the state. This, in turn, would affect governmental health care costs and tobacco tax revenues.

**Health Care Costs.** Smoking, secondhand smoke, and the use of other tobacco products have been linked to various ill health effects by the United States Surgeon General and numerous scientific studies. The state and local governments incur costs for a portion of the health care of many low-income and elderly persons, and provide health insurance coverage for their employees. Consequently, any changes in state law that affect the health of the general populace—and low-income, elderly, and public employees in particular—would affect publicly funded health care costs. The measure would affect those health care costs due to likely increases in the consumption of tobacco products and/or secondhand smoke exposure. We cannot estimate the magnitude of these costs.

**Tobacco Tax.** The state currently taxes cigarettes and other tobacco products. The tax raised about \$665 million in 1993–94. Tobacco tax revenues are currently dedicated to (1) the Cigarette and Tobacco Products Surtax Fund (68 percent), (2) the state General Fund (27 percent), and (3) the Breast Cancer Fund (5 percent). Under this measure, the use of tobacco products would likely be higher than under current law. As a result, tobacco tax revenues would also increase by an unknown amount.

**Enforcement Costs**

**State Costs.** The Department of Industrial Relations, the state agency responsible for enforcing workplace safety violations, would incur additional costs to respond to complaints about smoking violations. We estimate that the added workload would increase state costs by less than \$1 million annually.

**Local Costs.** Local agencies would be responsible for

enforcing all portions of the measure except workplace smoking regulations. The measure requires local law enforcement to conduct annual, unannounced, random inspections of places where tobacco products are sold or distributed. These costs probably would not be significant. Costs would be offset in part by fine revenue collected by local governments from people or businesses found guilty of violating the provisions of the measure.

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**For text of Proposition 188 see page 92**

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# 188

## Smoking and Tobacco Products. Local Preemption. Statewide Regulation. Initiative Statute.

### Argument in Favor of Proposition 188

#### VOTE YES ON PROPOSITION 188

#### IT HELPS PROTECT NONSMOKERS BY REGULATING SMOKING IN PUBLIC AND IT HELPS KEEP TOBACCO AWAY FROM MINORS

One of the most effective ways to reduce smoking in the future is to stop minors from starting to smoke today. Proposition 188 will impose strict laws that will discourage minors from smoking by:

- Outlawing tobacco advertising within 500 feet of any elementary, junior high or high school.
- Doubling the current fines for selling tobacco to minors, up to \$2,000 for a third offense.
- Banning cigarette vending machines in unsupervised public places where minors are allowed.
- Making illegal purchase of tobacco by a minor punishable by a \$500 fine or 100 hours of community service.

#### PROPOSITION 188 IS TOUGH AND RESTRICTIVE

Proposition 188 completely bans smoking in restaurants, workplaces and other public places except in designated separate areas that meet tough, new ventilation standards.

Proposition 188 will impose tougher restrictions on the sale and use of tobacco products than currently faced by a majority of Californians.

#### TOUGH RESTAURANT SMOKING LAW

Proposition 188 will require restaurants to keep a minimum of 75% of their seats in separate, well-ventilated, nonsmoking sections.

#### TOUGH WORKPLACE SMOKING LAW

Proposition 188 protects nonsmokers from being subjected to secondhand smoke by prohibiting smoking in all workplaces except individual private offices, conference rooms with the consent of all occupants, or completely separate smoking areas if tough ventilation standards are met.

#### TOUGH ANNUAL REVIEW

Proposition 188 mandates annual certification of ventilation systems to insure that nonsmokers are protected from being subjected to secondhand smoke.

#### PROPOSITION 188 IMPOSES TOUGH, UNIFORM STATEWIDE RESTRICTIONS

Currently, California has a mismatched patchwork of local smoking ordinances that is confusing to the public and unfair to businesses. Proposition 188 will solve that problem by:

- Replacing the confusing patchwork quilt of numerous, differing local smoking ordinances with a single, tough uniform statewide law, just as alcohol is regulated at the statewide level.
- Guaranteeing nonsmokers the same protection and ability to avoid secondhand smoke everywhere in the state.
- Providing clear-cut rules so smokers and nonsmokers know where smoking is allowed.

#### PROPOSITION 188 PROVIDES FOR FREEDOM OF CHOICE

Proposition 188 allows any restaurant, any bar, any workplace, or any public place to become 100% nonsmoking if the individual business owner wishes to do so.

Proposition 188 allows individual business and restaurant owners who are willing to meet tough new ventilation standards the option of permitting smoking in small separate sections.

Government needs to be very careful about going too far when regulating issues that involve an individual's choice of personal or private activities.

Proposition 188 balances the interests of employers and employees and their nonsmoking and smoking patrons. It is a real alternative, a fair balance, and the reasonable solution to a tough problem.

#### VOTE YES ON PROPOSITION 188 THE REASONABLE AND FAIR SOLUTION

#### JEANETTE ROACHE

*Member, San Diego Tavern and Restaurant Association*

#### ROBERT M. JACOBS

*Executive Director, San Francisco Hotel Association*

#### JESSE NAVARRO

*President, International Hispanic Chamber  
of Commerce*

### Rebuttal to the Argument in Favor of Proposition 188

#### DON'T BE FOOLED BY THE TOBACCO INDUSTRY! VOTE NO! on 188

PROPOSITION 188 IS A TRICK. IT ACTUALLY PROMOTES SMOKING. The Philip Morris tobacco company put 188 on the ballot to overturn our strong new state law that eliminates smoking in most workplaces.

If 188 passes, an estimated half million more Californians will begin to smoke.

#### MORE CHILDREN WILL SMOKE

The tobacco industry claim that 188 protects children is outrageous. 188 will not prevent children from smoking. More adult smokers means more kids breathing deadly secondhand smoke and smoking themselves.

Vote NO on 188 to protect our children!

#### PROPOSITION 188 WILL HURT TAXPAYERS AND CONSUMERS

More smoking means higher health care costs and consumer prices WHICH WE HAVE TO PAY—a billion dollars annually, according to a University of California study.

#### SMOKE FREE ENVIRONMENTS WILL DISAPPEAR

188 does not ban smoking in restaurants or workplaces. It doesn't even require separately ventilated smoking areas and permits smoking in offices, cafeterias and conference rooms.

The toxic chemicals in second hand smoke will increase cancer, heart and lung disease in nonsmokers. 188's ventilation requirements won't protect us.

#### PROTECT OUR RIGHTS

We should *not give up* our right to adopt smoking rules in our own communities. 188 would permanently repeal all local and state laws and impose the Philip Morris tobacco company scheme across the state.

#### HEALTH ORGANIZATIONS URGE "NO on 188!"

- American Cancer Society
- American Heart Association
- American Lung Association
- California Medical Association
- California Nurses Association

#### CARY A. PRESANT, M.D.

*President, American Cancer Society,  
California Division*

#### PAT DINGS DALE

*President, California State Parent  
Teachers Association (PTA)*

#### KURT LAUMANN, R.N.

*President, California Nurses Association*

# Smoking and Tobacco Products. Local Preemption. Statewide Regulation. Initiative Statute.

# 188

## Argument Against Proposition 188

**WARNING: PROPOSITION 188 IS HAZARDOUS TO YOUR HEALTH.** Philip Morris, the world's largest tobacco company, is spending millions of dollars to pass Proposition 188 to protect tobacco industry profits. It should be called the "Tobacco Industry Protection Act!"

They claim Proposition 188 will limit smoking in public places. **DON'T BE FOOLED! PROPOSITION 188 IS A SMOKE SCREEN.**

**CALIFORNIA ALREADY HAS A TOUGH STATEWIDE STANDARD LIMITING WORKPLACE SMOKING.** Proposition 188 would repeal this statewide standard and eliminate the California Indoor Clean Air Act of 1976 and *all the current, local smoking restrictions passed by cities and counties in recent years.*

**IF THE TOBACCO INDUSTRY SUCCEEDS, CALIFORNIA'S OFFICIAL POLICY WILL ENCOURAGE SMOKING IN PUBLIC PLACES.** Smokers will find it harder to quit and tobacco companies will have an easier time addicting young people.

Less than one in five adult Californians smokes, so Philip Morris executives are hoping they can fool voters at the polls in November by misrepresenting it as a strong anti-smoking measure. **THIS IS THE SAME WAY THE TOBACCO INDUSTRY TRICKED PEOPLE INTO SIGNING PETITIONS TO PUT PROPOSITION 188 ON THE BALLOT.**

Secondhand smoke causes health problems in nonsmokers, including asthma, respiratory disease and cancer. According to one estimate an additional one to four million nonsmoking workers will be exposed to second hand smoke if Proposition 188 passes.

If Proposition 188 passes, nonsmokers will be forced to breathe secondhand smoke nearly everywhere. Smoking will be allowed in restaurants and employee cafeterias, private offices, conference rooms and many other indoor workplaces.

The biggest lie is the promise of clean air in enclosed smoking areas. The ventilation required by Proposition 188 will not

protect our health. The proposed standards require only the smell of tobacco smoke be removed from the air, not the cancer-causing chemicals.

Proposition 188 will not discourage children from buying tobacco. Children will still be targeted by the tobacco industry's slick advertisements and victimized by exposure to secondhand smoke.

Strong local laws discouraging tobacco sales to children and creating smoke-free environments would be eliminated by Proposition 188. These local controls have helped reduce smoking in California by 28%—three times the national average.

Effective local controls are causing huge financial losses for the cigarette companies. That's why the tobacco industry put Proposition 188 on the ballot; to prohibit any local government from regulating tobacco in the future.

Who do you trust? The tobacco industry . . . OR . . . the American Cancer Society, American Lung Association, American Heart Association, Americans for Nonsmokers' Rights, California Association of Hospitals and Health Systems, California Dental Association, California Medical Association, California Nurses Association, League of California Cities, California Common Cause and many other consumer, health care, senior citizen, minority and law enforcement organizations which urge you to vote NO on PROPOSITION 188.

**C. EVERETT KOOP, M.D.**  
*Surgeon General, U.S. Public Health  
Service 1981-1989*

**NANCY HOUSTON MILLER, R.N., B.S.N.**  
*Chairman, American Heart Association,  
California Affiliate*

**SPENCER KOERNER, M.D.**  
*Chairman, American Lung Association of California*

## Rebuttal to Argument Against Proposition 188

Opponents of Proposition 188 want to prohibit all smoking. And if they ran a business, they could make that choice under this initiative.

While the opponents are entitled to their opinion, that doesn't excuse their distorting the truth about 188's tough provisions.

**UNDER 188, CALIFORNIA'S OFFICIAL POLICY WILL BE TO DISCOURAGE SMOKING IN PUBLIC PLACES.**

**PROPOSITION 188 IS TOUGHER THAN THE OLD CALIFORNIA CLEAN INDOOR AIR ACT OF 1976 AND HELPS PROTECT NONSMOKERS FROM BEING SUBJECTED TO SECONDHAND SMOKE.**

- Smoking in restaurants and workplaces will be prohibited except in designated separate areas meeting tough new ventilation standards.
- Smoking in public places will be prohibited except in designated separate areas and such places as bars, bingo parlors, and gaming clubs where smokers congregate.

**PROPOSITION 188 WILL CLEARLY DISCOURAGE MINORS FROM BUYING TOBACCO BY:**

- Doubling fines for selling tobacco to minors up to \$2,000 for third offenses.

- Outlawing tobacco product billboard advertising within 500 feet of elementary, junior high, or high schools.
- Punishing the purchase of tobacco by a minor by a \$500 fine or 100 hours of community service.
- Banning cigarette vending machines from unsupervised public places where minors are allowed.

**IT'S A MATTER OF CHOICE.**

Opponents of 188 want more laws to prevent individual business owners from choosing to accommodate nonsmoking and smoking customers within strict guidelines.

Proposition 188 balances the interests of nonsmokers and smokers. It's a tough but reasonable alternative to prohibition.

**VOTE YES ON PROPOSITION 188—THE RIGHT SOLUTION TO A TOUGH PROBLEM.**

**JEANETTE ROACHE**  
*Member, San Diego Tavern and Restaurant Association*

**ROBERT M. JACOBS**  
*Executive Director, San Francisco Hotel Association*

**JESSE NAVARRO**  
*President, International Hispanic Chamber  
of Commerce*

## An Overview of State Bond Debt

This section of the ballot pamphlet provides an overview of the state's current bond debt. It also provides a discussion of the impact the bond measures on this ballot, if approved, would have on this debt level.

### Background

**What Is Bond Financing?** Bond financing is a type of long-term borrowing used to raise money for specific projects. The state gets money by selling "bonds" to investors. The state must pay back the amount of the bonds along with interest.

The money raised from bonds primarily funds large capital outlay projects, such as prisons, schools, and colleges. The state uses bond financing mainly because these facilities are used for many years and their large dollar costs are difficult to pay for all at once.

**General Fund Bonds.** Most of the bonds the state issues are general obligation bonds. The General Fund makes debt payments on about three-fourths of these bonds. The remaining general obligation bonds (such as veterans housing bonds) are self-supporting, and therefore do not require General Fund support. The money in the General Fund comes primarily from state personal and corporate income taxes and sales taxes. General obligation bonds must be approved by the voters, and are placed on the ballot by legislative action or by initiative.

The state also issues bonds known as lease-revenue bonds. These bonds do not require voter approval. The state has used these bonds to fund capital outlay projects in higher education, to construct prisons, and to build state offices. The General Fund also makes debt payments on these bonds.

**What Are the Direct Costs of Using Bonds?** The state's cost for using bonds depends primarily on the interest rate that is paid on the bonds, and the number of years over which they are paid off. Most general obligation bonds are paid off over a period of 20 to 30 years. Assuming an interest rate of 6 percent, the cost of paying off bonds over 25 years is about \$1.78 for each dollar borrowed—\$1 for the dollar borrowed and 78 cents

for the interest. These payments, however, are spread over the entire period, so the cost after adjusting for inflation is less. This is because future payments are made with cheaper dollars. Assuming a 4 percent future annual inflation rate, the cost of paying off the bonds in today's dollars would be about \$1.19 for each \$1 borrowed.

### The State's Current Debt Situation

**The Amount of State Debt.** As of July 1, 1994, the state had about \$19.4 billion of General Fund bond debt—\$14.4 billion of general obligation bonds and \$5.0 billion of lease-revenue bonds. Also, about \$5.8 billion of authorized bonds had not been sold because the projects to be funded by the bonds had not been undertaken.

**Debt Payments.** We estimate that payments on the state's General Fund bond debt will be about \$2.2 billion during the 1994–95 fiscal year. This is about 5.3 percent of estimated General Fund revenues. This percentage is referred to as the state's "debt ratio." In 1990–91, the state's debt ratio was 2.5 percent.

We estimate that as already authorized bonds are sold, the state's annual payments for bond debt will increase to about \$2.5 billion, resulting in a debt ratio of 5.6 percent by 1996–97. If no new bond proposals are approved, the debt ratio will decline after 1996–97.

### Bond Measure Proposed on the Ballot

There is one general obligation bond measure on this ballot, totaling \$1 billion:

- \$1 billion for passenger rail systems.

If this bond measure is approved, we estimate that the state's bond debt payments would be about \$2.6 billion in 1996–97 and the debt ratio would be 5.7 percent. We estimate that in 1996–97 the state's General Fund bond debt would total \$22.4 billion (after accounting for the sale of some authorized bonds and the retirement of some debt). Voter approval of additional bonds at future elections or legislative authorization of additional lease-revenue bonds would increase the state's debt.



## Proposition 181: Text of Proposed Law

This law proposed by Assembly Bill 973 (Statutes of 1989, Chapter 108), as amended by AB 680 (Statutes of 1992, Ch. 25), SB 1691 (Statutes of 1992, Ch. 1310), and AB 1089 (Statutes of 1993, Ch. 478), is submitted to the people in accordance with the provisions of Article XVI of the Constitution.

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

### PROPOSED LAW

SEC. 4. Chapter 19 (commencing with Section 2703) is added to Division 3 of the Streets and Highways Code, to read:

#### CHAPTER 19. PASSENGER RAIL AND CLEAN AIR BOND ACT OF 1994

##### Article 1. General Provisions

2703. This chapter shall be known and may be cited as the Passenger Rail and Clean Air Bond Act of 1994.

2703.01. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the Passenger Rail Finance Committee created pursuant to Section 2703.12.

(b) "Department" means the Department of Transportation.

(c) "Fund" means the Passenger Rail Bond Fund created pursuant to Section 2703.05.

2703.02. The Legislature has provided that, in addition to the one billion dollars (\$1,000,000,000) authorized pursuant to this chapter, the Passenger Rail and Clean Air Bond Act of 1990 has been submitted for voter approval for the issuance of additional bonds of one billion dollars (\$1,000,000,000) in 1990 and the Passenger Rail and Clean Air Bond Act of 1992 has been submitted for voter approval for the issuance of additional bonds of one billion dollars (\$1,000,000,000) in 1992, for a total of three billion dollars (\$3,000,000,000).

##### Article 2. Transportation Improvement Program

2703.05. The proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the Passenger Rail Bond Fund, which is hereby created.

2703.06. The money in the fund, upon appropriation by the Legislature, shall be available, without regard to fiscal years, for acquisition of rights-of-way, capital expenditures, and acquisition of rolling stock for intercity rail, commuter rail, and urban rail transit and for capital improvements which directly support rail transportation, including exclusive busways which are converted within 10 years after completion of construction into rail lines, grade separations to enhance rail passenger service, and multimodal terminals.

2703.07. The appropriations for capital improvements and acquisition of rolling stock for intercity rail, commuter rail, and urban rail transit shall be used only on the following routes and corridors and those specified by statutes enacted by the Legislature:

(a) Intercity Rail.

- (1) Los Angeles-San Diego.
- (2) Santa Barbara County-Los Angeles.
- (3) Los Angeles-Fresno-San Francisco Bay area and Sacramento.
- (4) San Francisco Bay area-Sacramento-Auburn.
- (5) San Francisco-Eureka.
- (6) Santa Barbara-San Luis Obispo County-San Jose.
- (b) Commuter Rail.
- (1) San Francisco-San Jose.
- (2) San Jose-Gilroy.
- (3) Gilroy-Monterey.
- (4) Gilroy-Hollister.
- (5) Stockton-Livermore.
- (6) Orange County-Los Angeles.
- (7) Riverside County-Orange County.
- (8) San Bernardino County-Los Angeles.
- (9) Ventura County-San Fernando Valley-Los Angeles.
- (10) Saugus-Los Angeles.
- (11) Oceanside-San Diego.
- (12) Escondido-Oceanside.
- (13) Riverside-Coachella Valley.
- (14) Riverside-Los Angeles.
- (15) Jackson-Sacramento.
- (16) Jackson-Stockton.

(c) Urban Rail Transit.

- (1) Sacramento.
- (A) Roseville extension.
- (B) Hazel extension.
- (C) Meadowview extension.
- (D) Arena extension.
- (2) San Francisco Bay Area Rapid Transit District.
- (A) Bayfair-East Livermore.
- (B) Concord-East Antioch.
- (C) Fremont-Warm Springs.
- (D) Daly City-San Francisco International Airport.
- (E) Coliseum-Oakland International Airport.
- (F) Richmond-Crockett.
- (G) Warm Springs-San Jose.
- (3) Alameda and Contra Costa Counties.
- (A) Pleasanton-Concord.
- (4) Santa Clara County.

(A) Sunnyvale-Santa Clara.

(B) San Jose-Vasona.

(C) State Highway Route 237.

(5) San Francisco City and County.

(A) Extensions, improvements, and additions to the San Francisco Municipal Railway.

(6) San Francisco-Santa Rosa-Sonoma.

(7) Santa Cruz County.

(A) Boardwalk area-University of California at Santa Cruz-Watsonville Junction-Davenport.

(8) Los Angeles Metro Rail.

(A) Wilshire/Alvarado-Wilshire/Western.

(B) Wilshire/Alvarado-Lankershim/Chandler.

(C) San Fernando Valley extension.

(D) Union Station-State Highway Routes 5 and 710.

(E) Wilshire/Western-Wilshire/State Highway Route 405.

(9) Los Angeles County Rail Corridors.

(A) San Fernando Valley.

(B) Pasadena-Los Angeles.

(C) Coastal Corridor (Torrance to Santa Monica).

(D) Santa Monica-Los Angeles.

(E) State Highway Route 5.

(F) State Highway Route 110.

(10) San Diego County.

(A) El Cajon-Santee.

(B) Downtown-Old Town.

(C) Airport-Point Loma.

(D) Old Town-Mission Valley.

(E) Mission Valley-La Mesa.

(F) La Jolla-Miramar.

(G) Old Town-Del Mar.

(H) Downtown-Escondido.

(I) Chula Vista-Otay Mesa.

(11) Fullerton-Irvine, with an extension from Santa Ana to Stanton, and an extension to Norwalk.

(12) Riverside/San Bernardino to Orange County, including extensions to Redlands and Hemet.

2703.08. (a) At least 15 percent of the money in the fund shall be used for intercity rail purposes and shall be equitably expended on intercity rail corridors based on the relative population served by each corridor.

(b) Any intercity rail corridor which was included, on or after January 1, 1992, among the corridors enumerated in Section 2703.07, is eligible to compete for funding under this article. Funds that had been programmed or allocated prior to the inclusion of the additional eligible corridor or corridors need not be reprogrammed or reallocated in order to comply with the requirements of subdivision (a).

##### Article 3. Fiscal Provisions

2703.10. Bonds in the total amount of one billion dollars (\$1,000,000,000), exclusive of refunding bonds, 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 be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

2703.11. (a) Except as provided in subdivision (b), the bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law (Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code), and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) Notwithstanding any provision of the State General Obligation Bond Law, each issue of bonds authorized by the committee shall have a final maturity of not more than 20 years.

2703.12. (a) Solely for the purpose of authorizing the issuance and sale, pursuant to the State General Obligation Bond Law, of the bonds authorized by this chapter, the Passenger Rail Finance Committee is hereby created. For purposes of this chapter, the Passenger Rail Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Director of Finance, the Controller, the Secretary of the Business, Transportation and Housing Agency, and the Director of Transportation, or their designated representatives. The Treasurer shall serve as chairperson of the committee. A majority of the committee may act for the committee.

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

2703.13. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Section 2703.06 and, if so, the amount of bonds to be issued and sold. Successive issues of bonds may be issued and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized be issued and sold at any one time. The committee shall consider program funding needs, revenue projections, financial market conditions, and other necessary factors in determining the shortest feasible term for the bonds to be issued.

2703.14. 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.

2703.15. 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 equal to that 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.

2703.16. (a) Money may be transferred from the fund to the State Transportation Fund to reimburse the Transportation Planning and Development Account and the State Highway Account for expenditures made from those accounts, on and after November 9, 1994, for capital improvements and acquisitions of rolling stock for intercity rail, commuter rail, and urban rail transit in accordance with Chapter 2 (commencing with Section 14520) of Part 5.3 of Division 3 of Title 2 of the Government Code, as specified in Section 2703.06.

(b) The amount that may be transferred pursuant to subdivision (a) shall not exceed the amount expended from those accounts for those capital improvements and acquisitions of rolling stock.

2703.17. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount borrowed pursuant to Section 2703.18. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

2703.18. For the purpose of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter, less any amount borrowed pursuant to Section 2703.17. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled

Money Investment Account, from the sale of bonds for the purpose of carrying out this chapter.

2703.19. All money deposited in the fund which 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.

2703.20. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law.

2703.21. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

2703.22. Notwithstanding any provision of the State General Obligation Bond Law with regard to the proceeds from the sale of bonds authorized by this chapter that are subject to investment under Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code, the Treasurer may maintain a separate account for investment earnings, order the payment of those earnings to comply with any rebate requirement applicable under federal law, and may otherwise direct the use and investment of those proceeds so as to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

2703.23. (a) The department may advance funds in the State Highway Account in the State Transportation Fund for all or a portion of the cost of projects approved for bond funding pursuant to this chapter. The director shall first make a finding that there are adequate funds for the advancement without delaying or adversely affecting any other project. The total amount advanced shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purposes of this chapter.

(b) All advances shall be subject to the terms and conditions of an agreement between the department and the public entity which will receive the advancement. The agreement shall contain provisions for reimbursement of the State Highway Account from the proceeds of the next bond sale for funds advanced pursuant to this section. Any amounts advanced pursuant to this section shall be repaid with interest at the rate being earned by the Pooled Money Investment Account at the time of the advance. Interest payments shall be made from the funds of the public entity which received the advancement, other than from the proceeds of bonds authorized by this chapter.

## PROPOSITION 182 WAS REMOVED BY LAW

### Proposition 183: Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment 38 (Statutes of 1994, Resolution Chapter 59) expressly amends the Constitution by amending a section thereof; therefore, existing provisions proposed to be deleted are printed in ~~strikeout type~~ and new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED AMENDMENT TO ARTICLE II, SECTION 15

SEC. 15. (a) An election to determine whether to recall an officer and, if appropriate, to elect a successor shall be called by the Governor and held not less than 60 days nor more than 80 days from the date of certification of sufficient signatures. *H*

(b) A recall election may be conducted within 180 days from the date of certification of sufficient signatures in order that the election may be consolidated with the next regularly scheduled election occurring wholly or partially within the same jurisdiction in which the recall election is held, if the number of voters eligible to vote at that next regularly scheduled election equal at least 50 percent of all the voters eligible to vote at the recall election.

(c) If the majority vote on the question is to recall, the officer is removed and, if there is a candidate, the candidate who receives a plurality is the successor. The officer may not be a candidate, nor shall there be any candidacy for an office filled pursuant to subdivision (d) of Section 16 of Article VI.

### Proposition 184: Text of Proposed Law

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

This initiative measure adds a section to the Penal Code; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

#### PROPOSED LAW

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

It is the intent of the People of the State of California in enacting this measure to ensure longer prison sentences and greater punishment for those who commit a felony and have been previously convicted of serious and/or violent felony offenses.

SECTION 1. Section 1170.12 is added to the Penal Code, to read:

1170.12. (a) Notwithstanding any other provision of law, if a defendant has been convicted of a felony and it has been pled and proved that the defendant has one or more prior felony convictions, as defined in subdivision (b), the court shall adhere to each of the following:

(1) There shall not be an aggregate term limitation for purposes of consecutive sentencing for any subsequent felony conviction.

(2) Probation for the current offense shall not be granted, nor shall execution or imposition of the sentence be suspended for any prior offense.

(3) The length of time between the prior felony conviction and the current felony conviction shall not affect the imposition of sentence.

(4) There shall not be a commitment to any other facility other than the state prison. Diversion shall not be granted nor shall the defendant be eligible for commitment to the California Rehabilitation Center as provided in Article 2 (commencing with Section 3050) of Chapter 1 of Division 3 of the Welfare and Institutions Code.

(5) The total amount of credits awarded pursuant to Article 2.5 (commencing with Section 2930) of Chapter 7 of Title 1 of Part 3 shall not exceed one-fifth of the total term of imprisonment imposed and shall not accrue until the defendant is physically placed in the state prison.

(6) If there is a current conviction for more than one felony count not committed on the same occasion, and not arising from the same set of operative facts, the court shall sentence the defendant consecutively on each count pursuant to this section.

(7) If there is a current conviction for more than one serious or violent felony as described in paragraph (6) of this subdivision, the court shall impose the sentence for each conviction consecutive to the sentence for any other conviction for which the defendant may be consecutively sentenced in the manner prescribed by law.

(8) Any sentence imposed pursuant to this section will be imposed consecutive to any other sentence which the defendant is already serving, unless otherwise provided by law.

(b) Notwithstanding any other provision of law and for the purposes of this section, a prior conviction of a felony shall be defined as:

(1) Any offense defined in subdivision (c) of Section 667.5 as a violent felony or any offense defined in subdivision (c) of Section 1192.7 as a serious felony in this state. The determination of whether a prior conviction is a prior felony conviction for purposes of this section shall be made upon the date of that prior conviction and is not affected by the sentence imposed unless the sentence automatically, upon the initial sentencing, converts the felony to a misdemeanor. None of the following dispositions shall affect the determination that a prior conviction is a prior felony for purposes of this section:

(A) The suspension of imposition of judgment or sentence.

(B) The stay of execution of sentence.

(C) The commitment to the State Department of Health Services as a mentally disordered sex offender following a conviction of a felony.

(D) The commitment to the California Rehabilitation Center or any other facility whose function is rehabilitative diversion from the state prison.

(2) A conviction in another jurisdiction for an offense that, if committed in California, is punishable by imprisonment in the state prison. A prior conviction of a particular felony shall include a conviction in another jurisdiction for an offense that includes all of the elements of the particular felony as defined in subdivision (c) of Section 667.5 or subdivision (c) of Section 1192.7.

(3) A prior juvenile adjudication shall constitute a prior felony conviction for purposes of sentence enhancement if:

(A) The juvenile was sixteen years of age or older at the time he or she committed the prior offense, and

(B) The prior offense is

(i) listed in subdivision (b) of Section 707 of the Welfare and Institutions Code, or

(ii) listed in this subdivision as a felony, and

(C) The juvenile was found to be a fit and proper subject to be dealt with under the juvenile court law, and

(D) The juvenile was adjudged a ward of the juvenile court within the meaning of Section 602 of the Welfare and Institutions Code because the person committed an offense listed in subdivision (b) of Section 707 of the Welfare and Institutions Code.

(c) For purposes of this section, and in addition to any other enhancements or punishment provisions which may apply, the following shall apply where a defendant has a prior felony conviction:

(1) If a defendant has one prior felony conviction that has been pled and proved, the determinate term or minimum term for an indeterminate term shall be twice the term otherwise provided as punishment for the current felony conviction.

(2) (A) If a defendant has two or more prior felony convictions, as defined in paragraph (1) of subdivision (b), that have been pled and proved, the term for the current felony conviction shall be an indeterminate term of life imprisonment with a minimum term of the indeterminate sentence calculated as the greater of

(i) three times the term otherwise provided as punishment for each current felony conviction subsequent to the two or more prior felony convictions, or

(ii) twenty-five years or

(iii) the term determined by the court pursuant to Section 1170 for the underlying conviction, including any enhancement applicable under Chapter 4.5 (commencing with Section 1170) of Title 7 of Part 2, or any period prescribed by Section 190 or 3046.

(B) The indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall be served consecutive to any other term of imprisonment for which a consecutive term may be imposed by law. Any other term imposed subsequent to any indeterminate term described in subparagraph (A) of paragraph (2) of this subdivision shall not be merged therein but shall commence at the time the person would otherwise have been released from prison.

(d) (1) Notwithstanding any other provision of law, this section shall be applied in every case in which a defendant has a prior felony conviction as defined in this section. The prosecuting attorney shall plead and prove each prior felony conviction except as provided in paragraph (2).

(2) The prosecuting attorney may move to dismiss or strike a prior felony conviction allegation in the furtherance of justice pursuant to Section 1385, or if there is insufficient evidence to prove the prior conviction. If upon the satisfaction of the court that there is insufficient evidence to prove the prior felony conviction, the court may dismiss or strike the allegation.

(e) Prior felony convictions shall not be used in plea bargaining, as defined in subdivision (b) of Section 1192.7. The prosecution shall plead and prove all known prior felony convictions and shall not enter into any agreement to strike or seek the dismissal of any prior felony conviction allegation except as provided in paragraph (2) of subdivision (d).

SECTION 2. All references to existing statutes are to statutes as they existed on June 30, 1993.

SECTION 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4. The provisions of this measure shall not be amended by the Legislature except by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electors.

## Proposition 185: Text of Proposed Law

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

This initiative measure amends and adds sections to various codes; 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 People of the State of California do enact as follows:

SECTION 1. This act shall be known and may be cited as the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 2. The People of the State of California find and declare all of the following:

(a) Improving air quality and saving energy are vital for the well-being of the people of California. One of the best ways to accomplish these goals is to convert existing public transit systems to electrical and clean fuel operation and to build new public transit systems which run on electricity and clean fuels.

(b) Improving public transportation service to those with disabilities and the elderly is an important public goal.

(c) Increasing the efficiency of public transportation systems, and reducing waste and bureaucratic overhead is important in an era of diminished public resources.

(d) When funds are collected for a specific transportation purpose, they should be used for that purpose.

(e) Preventing crime and graffiti on public transportation vehicles is important to the quality of life in our cities, and to the safety and security of transit passengers.

(f) Reinforcing roads and bridges to prevent loss of life in earthquakes is a worthwhile use of transportation funds.

(g) Increasing the safety of passenger rail systems by utilizing automated enforcement technology at grade crossings will save lives and reduce accidents by providing for more effective and efficient enforcement of grade crossing laws.

(h) Providing funds to reduce the impact of transportation on the environment by protecting sensitive lands, planting trees in and near urban areas, providing funding for bicycle and trail projects, and other projects is an appropriate use of transportation funding.

(i) It is appropriate to pay for these programs through an increase in the sales tax on gasoline.

SECTION 3. Section 14502.5 is added to the Government Code, to read:

14502.5. (a) The Rail Committee of the California Transportation Commission is hereby created, and is comprised of three of the members of the commission appointed pursuant to subdivision (a) of Section 14502. No member of the committee shall be the commissioner who represents the Public Utilities Commission. All appointees to the committee shall have knowledge and expertise in rail and other forms of public transportation.

For the initial committee, two of the members of the committee shall be the members of the commission who are appointed to the commission after January 10, 1995, to fill the vacancies on the commission which occur in 1995. The third member of the committee shall be appointed by the Governor after January 10, 1995, from the current members of the commission, and shall serve until the

Governor fills the next vacancy on the commission, at which time the member appointed to fill that vacancy shall become the third member of the committee.

(b) The committee shall have full and sole jurisdiction and authority to allocate the funds made available to it pursuant to the Clean Air, Jobs, and Transportation Efficiency Act of 1994. In addition, the committee shall have the full authority to allocate all state and federal rail and public transit funds over which the commission otherwise would have jurisdiction, including bond funds approved by the voters, and transit funds made available pursuant to the Transportation Planning and Development Account, and other state funds available to the commission which are designated for rail and other public transit projects. Nothing in this subdivision shall be interpreted as granting either the commission or the committee the authority to allocate federal funds to a local transit agency or the department that are allocated directly from the federal government. The commission shall program all funds which may be allocated on a flexible basis to transit or highway purposes. The committee shall allocate all flexible funds which are programmed by the commission for transit purposes. The members of the committee shall be full voting members of the commission on all matters which require action by the commission.

(c) The purpose of this section is to streamline and expedite the early allocation and distribution of funds provided for rail and public transit programs, and to efficiently expend funds authorized by the Clean Air, Jobs, and Transportation Efficiency Act of 1994, to stimulate the California economy and create jobs.

(d) The committee shall cease to exist on January 1, 2000, and the full commission shall assume the powers and duties of the committee pursuant to the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 4. Section 29531 of the Government Code is amended to read:

29531. (a) The board of supervisors shall continuously appropriate the money in such the local transportation fund for expenditure for the purposes specified in this article directly related to administration of the fund and the fund's revenue and the transportation and associated fund administration purposes specified in Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code.

(b) The local transportation fund is a trust fund. Once the local transportation fund is created, it shall not be abolished. Money in the fund shall only be allocated to mass transportation, pedestrian and bicycle facilities, streets and roads, transportation planning, and fund administration purposes, as required by this article and by Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code. Neither the county nor the Legislature shall divert any of the money in the fund from these purposes to another purpose.

(c) If a statute transfers any funds or results in the transfer of any funds from the local transportation fund to any other account, fund, or other depository, directly or indirectly, within 90 days of the effective date of the statute, the Controller shall transfer an amount equivalent to the amount of the transfer from the General Fund to the local transportation fund. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision.

SECTION 5. Section 25619 is added to the Public Resources Code, to read:

25619. (a) Funds transferred pursuant to subdivision (e) of Section 7103 of the Revenue and Taxation Code are continuously appropriated, notwithstanding Section 13340 of the Government Code and without regard to fiscal year, to the

State Energy Conservation Assistance Account, created pursuant to Section 25416, to be expended by the commission.

(b) The funds appropriated pursuant to subdivision (a) shall be used for research, development, demonstration, and commercialization of electric, hybrid-electric, including, but not limited to, hybrid utility vans, and other "ultra-low emission" and "zero emission" vehicles and vehicle technologies, and the establishment of these advanced transportation technology industries in California. The commission shall expend these funds in consultation with the Department of Transportation and the State Air Resources Board, and may adopt guidelines to implement this section. High priority for use of these funds shall be to promote commercialization of these technologies by assisting in the purchase of these vehicles by public agencies. Public agencies using funds provided pursuant to this subdivision shall purchase vehicles meeting the emission standards established by the State Air Resources Board for "ultra-low emission" and "zero emission" vehicles. The terms "ultra-low emission" and "zero emission" shall be defined by the State Air Resources Board. For purposes of this section, "vehicle" includes passenger cars, light and medium-duty trucks and vans, other vehicles for personal transportation, and buses. Expenditures pursuant to this subdivision for buses and bus technologies shall not exceed ten million dollars (\$10,000,000).

The commission shall seek additional funds to augment these programs. In allocating funds for these programs the commission shall give preference to vehicle technologies that are identified by the State Air Resources Board as having very low fuel cycle emissions of air pollutants, or other air quality characteristics that, in the judgment of the State Air Resources Board, provide significant air quality and economic benefits to California. In assisting in the purchase of vehicles by public agencies, the commission shall have as a goal that the agencies' purchase or lease cost of the vehicles, not counting the assistance provided by the commission and other forms of assistance, be no more than the cost of comparable conventional gasoline or diesel fueled vehicles.

(c) The Legislature may amend subdivision (b) of this section by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 6. Section 99232 of the Public Utilities Code is amended to read: 99232. For (a) Notwithstanding any other provision of law, for counties with a population of 500,000 or more, as determined by the 1970 federal decennial census, but excluding counties with more than 4,500 miles of maintained county roads as of 1970 as determined by the most recent population information available from the Department of Finance, the amount representing the apportionments of the areas of all operators serving an urbanized area of 100,000 or more in population shall be available solely for claims for Section 99234 purposes, and for Article 4 (commencing with Section 99260) and Article 4.5 (commencing with Section 99275) purposes, and not for street and road purposes, and any of those moneys not allocated in any year shall be available for those claims in subsequent years. However, no area that was subject to the apportionment restriction of this section in effect on July 1, 1993, shall become eligible to receive funds for street and road purposes as a result of any change to this section made by the Clean Air, Jobs, and Transportation Efficiency Act of 1994. In the event of a conflict between this section and any other provision of law, this section shall prevail. This section shall become operative on July 1, 1995.

(b) The Legislature may amend subdivision (a) of this section by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 7. Section 99310.5 of the Public Utilities Code is amended to read: 99310.5. (a) The account is hereby designated a trust fund.

(b) The funds in the account shall be available, when appropriated by the Legislature, are continuously appropriated, notwithstanding Section 13340 of the Government Code and without regard to fiscal years, to the committee, for allocation only for the transportation planning and mass transportation purposes, as specified by the Legislature required by this article.

(c) Any reference to the account in this article also includes the subaccount established by Section 99310.6, except as provided in Section 99310.6 and Article 7.5 (commencing with Section 99385). In the case of a conflict between this section and Section 99310.6 or Article 7.5 (commencing with Section 99385), Section 99310.6 and Article 7.5 (commencing with Section 99385) shall prevail.

(d) The Legislature may amend subdivision (c) of this section by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, this section the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 8. Section 99310.6 is added to the Public Utilities Code, to read: 99310.6. Funds transferred to the account pursuant to Section 7103 of the Revenue and Taxation Code shall be deposited in a separate subaccount of the account, which shall be known as the Clean Air, Jobs, and Transportation Efficiency Act Subaccount. Interest on these funds shall accrue to the subaccount. Notwithstanding Section 13340 of the Government Code, all money in the subaccount is continuously appropriated, without regard to fiscal years, to the committee for allocation as required by Article 7.5 (commencing with Section 99385).

SECTION 9. Section 99310.7 is added to the Public Utilities Code, to read: 99310.7. (a) No funds in the account shall be used for debt service for general obligation bonds issued for transportation purposes pursuant to Chapter 17 (commencing with Section 2701) of the Streets and Highways Code and Chapter 19 (commencing with Section 2703) of Division 3 of that code, or bonds issued pursuant to Chapter 6 (commencing with Section 99690) of Part 11.5, or for any future general obligation bonds that the state may authorize and issue.

(b) All loans that were made from the account in order to pay transportation

bond debt service pursuant to the relevant provisions of the Budget Act of 1992, the Budget Act of 1993, and any other budget acts, shall be repaid, with interest at the pooled money investment rate applicable to the period during which the loans were outstanding, on or before June 1, 1997, with funds other than funds in the account or other funds dedicated to transportation purposes. If these loans have not been repaid in full by that date, the Controller shall transfer 50 percent of the amount due, including interest, on June 30, 1997, from the General Fund to the account, and shall transfer the remainder, including interest, from the General Fund to the account, on or before June 1, 1998. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision. The loans that were made pursuant to the relevant provisions of the budget acts described in this subdivision shall be considered to be loans until repaid, notwithstanding any other provision of law.

SECTION 10. Section 99310.8 is added to the Public Utilities Code, to read: 99310.8. (a) Except as otherwise specified in this article and Article 7.5 (commencing with Section 99385), and any provision of the Clean Air, Jobs, and Transportation Efficiency Act of 1994, no funds shall be transferred or loaned from the account to any other account, fund, or other depository. The intent of this subdivision is to provide funds to mass transportation and other public transportation purposes, and to successfully implement the purposes of Section 99399.10 and the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

(b) All interest, rental or lease income, or other income earned by the state from the funds in the account or from income produced by property acquired by the state by funds from the account, directly or indirectly, shall remain or be deposited in the account. This subdivision does not apply to income produced by property acquired and developed by local agencies or joint powers authorities pursuant to grants made by the state.

(c) If a statute transfers any funds from the account to any other account, fund, or other depository, directly or indirectly, within 90 days of the effective date of the statute, the Controller shall transfer an amount equivalent to the amount of the transfer from the General Fund to the account. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision.

SECTION 11. Section 99310.9 is added to the Public Utilities Code, to read: 99310.9. (a) (1) Notwithstanding Section 99310.8, all funds returned to the Transportation Planning and Development Account pursuant to subdivision (b) of Section 99310.7 shall be transferred to the Passenger Equipment Acquisition Fund, created pursuant to Section 14066 of the Government Code. The Passenger Equipment Acquisition Fund is a continuously appropriated fund, notwithstanding Section 13340 of the Government Code, without regard to fiscal years. These funds shall be available to the department, at the discretion of the department, to exercise remaining options for the procurement of intercity California rail cars initially procured pursuant to Section 99649, and to purchase California rail cars modified as necessary to meet the speed requirements of subparagraph (C) of paragraph (1) of subdivision (c) of Section 99391.

(2) If by the date the funds are returned to the account the equipment originally purchased pursuant to Section 99649 is not completely delivered and in revenue service, or if there are remaining significant contractual disputes between the department and the manufacturer of the equipment regarding equipment performance, the department may allocate the funds to the purchase of any rail cars and locomotives suitable for service in intercity rail service.

(3) In allocating the California rail cars purchased pursuant to paragraphs (1) and (2), highest priority shall be given to providing cars for intercity rail service on the Los Angeles-Orange County-San Diego rail corridor.

(4) All funds returned to the account and transferred to the Passenger Equipment Acquisition Fund and not expended on or before January 1, 2010, shall be transferred to the subaccount to be expended for the purposes of the subaccount.

(b) (1) The department shall not provide for the replacement of any existing Amtrak-owned or leased intercity rail cars in use on or after January 1, 1996, on California-supported intercity rail routes in existence on January 1, 1996, with state-owned California cars, unless Amtrak or the federal government provides assurances satisfactory to the department that a minimum of 90 percent federal funding has been secured for acquisition of California rail cars with at least as many aggregate number of seats as the Amtrak-owned cars to be replaced and removed from California for use on Amtrak routes in other states. Alternatively, the department may provide for the replacement of existing Amtrak-owned equipment on state-supported routes, if Amtrak contractually agrees to retain an equivalent or greater number of existing or new Amtrak-owned cars for use on new or expanded California-supported services, or if Amtrak agrees to another comparable or greater deployment of equipment within California which the department determines is fair to the state.

(2) This subdivision does not apply to Amtrak equipment in interstate service.

(3) The Legislature may amend paragraphs (1) and (2) of this subdivision by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 12. Section 99311 of the Public Utilities Code is amended to read: 99311. Upon appropriation by the Legislature, funds transferred, or scheduled as a reimbursement, to the account, pursuant to Section 21682.5 of this code and Section 194 of the Streets and Highways Code, shall be available for allocation by the director, in cooperation with the commission, for the following purposes:

(a) State transportation planning.

(b) Regional transportation planning by transportation planning agencies designated pursuant to Section 29532 of the Government Code, but not those specified in subdivision (b) of Section 29532.4 of the Government Code.

SECTION 13. Section 99312 of the Public Utilities Code is amended to read:

99312. From the funds transferred to the account pursuant to Section 7102 of the Revenue and Taxation Code, ~~the Legislature shall appropriate funds shall be allocated subject to the approval of the Director of Finance~~ for purposes of Section 99315.5. The remaining transferred funds in the account shall be ~~appropriated by the Legislature~~, allocated as follows:

(a) To the department, 50 percent for purposes of Section 99315, subject to the requirements of Section 99316. No funds shall be made available for subdivision (c) of Section 99315 as long as funds are available pursuant to subdivision (g) of Section 7103 of the Revenue and Taxation Code. Funding shall continue to be available for subdivision (b) of Section 99315, and at least 15 percent of those funds shall be allocated to intercity rail projects.

(b) To the Controller, 25 percent for allocation to transportation planning agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board pursuant to Section 99314.

(c) To the Controller, 25 percent for allocation to transportation agencies, county transportation commissions, and the San Diego Metropolitan Transit Development Board for purposes of Section 99313.

(d) The Legislature may amend subdivisions (a), (b) and (c) of this section by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 14. Section 99315.5 of the Public Utilities Code is amended to read:

99315.5. From the funds made available pursuant to Section 99312, an amount shall be ~~appropriated~~ allocated for each of the following purposes:

(a) To the department for its planning activities not payable from the State Highway Account in the State Transportation Fund, its mass transportation responsibilities, and its assistance in regional transportation planning.

(b) To the director for allocation, subject to Section 99315.6, to the Institute of Transportation Studies of the University of California and to the International Institute for Surface Transportation Policy Studies, authorized by the Intermodal Surface Transportation Efficiency Act of 1991 (P.L. 102-240) as the Institute for National Surface Transportation Policy Studies for training and research in public transportation systems engineering and management and coordination with other transportation modes and other public transportation policy issues. The director shall provide dollar-for-dollar matching funds for any federal funds provided to each institute.

(c) To the commission, subject to the approval of the Director of Finance, for its activities not payable from the State Highway Account.

(d) To the Public Utilities Commission for its passenger rail safety responsibilities specified in statute on commuter rail, intercity rail, and urban rail transit lines.

(e) The Legislature may amend subdivisions (a) through (d) of this section by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 15. Section 99316 of the Public Utilities Code is amended to read:

99316. (a) Funds made available pursuant to subdivision (a) of Section 99315 shall be ~~appropriated~~ allocated to the department for allocation, as directed by the commission, committee, for purposes of bus and passenger rail services pursuant to Sections 14035, 14035.5, and 14038 of the Government Code; and maintenance and operation of all rail lines and stations owned by the department and by the joint powers authority established pursuant to Section 250000. The department shall request, and the commission's rail committee shall approve, sufficient funds to operate the same levels of revenue service miles of state-funded rail and associated feeder bus service in existence on the effective date of the Clean Air, Jobs, and Transportation Efficiency Act of 1994, and all proposed services authorized pursuant to that act and otherwise proposed by the department, subject to farebox recovery requirements of Section 14031.8 of the Government Code as modified by this section. For purposes of this section, the farebox recovery requirements for a route shall include the aggregate revenues and costs from all passenger trains operated on the route as a whole, including Amtrak trains not funded by the state, and excluding the cost of right-of-way acquisition and other capital costs. The department may request funding of up to 100 percent of long-term avoidable costs of new and expanded intercity rail services in order to facilitate implementation of those services.

(b) The Legislature may amend subdivision (a) of this section by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 16. Article 7.5 (commencing with Section 99385) is added to Chapter 4 of Part 11 of Division 10 of the Public Utilities Code, to read:

Article 7.5. Clean Air, Jobs, and Transportation Efficiency Act Subaccount of the Transportation Planning and Development Account

99385. The People of the State of California find and declare all of the following:

(a) An improved seamless multimodal transportation system is vital to strengthening the state's economy, creating jobs, and providing increased mobility, cleaner air, energy savings, and congestion relief.

(b) Public transportation must continue to be an important component of the statewide transportation system.

(c) Several recently enacted state and federal mandates have increased the demand for public transportation services, without concurrently increasing funding for these services. These mandates include the Americans with Disabilities Act of 1990 (P.L. 101-336), the federal Clean Air Act Amendments of 1990 (P.L.

101-549), the California Clean Air Act of 1988 (Ch. 1568, Stats. 1988), the applicable provisions of the federal Energy Policy Act of 1992 (P.L. 102-486), as well as other enactments which prescribe clean air standards. The State of California should provide funding to allow California's public transit operators to carry out these mandates.

(d) Electrification of public transportation and the use of clean fuels for public transportation provide substantial clean air and energy savings benefits.

(e) Preservation of passenger rail rights-of-way is vital to maintain and expand a system of rail transportation which can help meet California's transportation needs in the 21st Century.

99386. For purposes of this article, the following terms have the following meanings:

(a) "Committee" is the Rail Committee of the commission, created pursuant to Section 14502.5 of the Government Code.

(b) "Act" is the Clean Air, Jobs, and Transportation Efficiency Act of 1994, as defined in Section 99399.

(c) "Subaccount" is the Clean Air, Jobs, and Transportation Efficiency Act Subaccount, created pursuant to Section 99310.6.

99387. (a) Funds shall not be allocated pursuant to this article for a project requiring service over the right-of-way of a railroad corporation unless a course of improvements and operation is agreed to by the railroad corporation or unless the right-of-way, or a part of the right-of-way, is acquired by eminent domain or purchase, or the right to use the right-of-way or its tracks is acquired by purchase or lease. New or increased passenger service over the right-of-way of a railroad corporation shall be implemented in a manner that ensures the adequacy and efficiency of existing freight service.

(b) No specific amounts allocated pursuant to this article are intended to indicate the actual fair market value of any railroad right-of-way or trackage rights to be acquired or leased. Similarly, no specific amounts allocated for a specific project are intended to indicate the total costs to complete that project.

(c) All acquisitions or long-term leases of rights-of-way and trackage rights shall be considered capital outlay projects.

99388. (a) The commission and the committee shall require each applicant for a grant pursuant to the act, including the department, to demonstrate in its application that if the grant funds being applied for are awarded, no other funds which were previously planned, programmed, or approved for public transportation purposes will be used for other than public transportation purposes.

(b) Funds provided pursuant to the act may be used to satisfy any federal requirement for non-federal matching funds for the project to be funded.

(c) Consistent with the requirements of Section 99399.15, the requirements of Sections 99680 and 99683 shall apply to any funds granted pursuant to the act by the commission or the committee.

99389. All funds in the subaccount are continuously appropriated without regard to fiscal years, notwithstanding Section 13340 of the Government Code, to the committee for allocation as required by this article.

99390. (a) Sixty-five percent of the revenues transferred to the subaccount in each fiscal year shall be available for the programs and projects specified in Section 99391.

(b) Thirty-five percent of the revenues transferred to the subaccount shall be available in each fiscal year for transit operations, as provided in Section 99393.

(c) (1) Funds allocated to the purposes of subdivision (a) remaining at the end of each fiscal year shall be available only for the purposes of subdivision (a) in future years.

(2) Funds allocated to the purposes of subdivision (b) remaining at the end of each fiscal year shall be available only for the purposes of subdivision (b) in future years.

99391. (a) Funds available pursuant to subdivision (a) of Section 99390 shall be programmed and allocated by the committee as provided in this section. Funds shall also be available for acquisition of rolling stock for projects eligible for funding pursuant to this section.

(b) Electrification of publicly owned urban rail transit system lines and bus lines shall not be considered a precedent for electrification of other rail lines, including freight rail lines, by any regulatory agency.

(c) (1) The committee shall allocate funds authorized to be spent by subdivision (a) of Section 99390 to the following mass transportation projects of statewide significance. No funds available pursuant to this paragraph shall be expended for the acquisition of rail rights-of-way on or after January 1, 2000. Notwithstanding any other provision of law, all of the projects listed in this paragraph shall be funded regardless of whether they have been included in the State Transportation Improvement Program or a regional transportation improvement program.

(A) Five hundred thousand dollars (\$500,000) shall be made available to the department in cooperation with the National Park Service and local transportation agencies, to determine the feasibility of implementing rail service from Merced to Yosemite National Park via the State Highway Route 140 corridor.

(B) Three hundred fifty million dollars (\$350,000,000) shall be made available to the Los Angeles and Long Beach Harbor Commissions for track improvements, rail and roadway bridges, grade separations, interconnections, depressed trainways, centralized traffic control, environmental remediation, signal synchronization, and other improvements to the Alameda-San Pedro branch rail line connecting the Los Angeles and Long Beach Harbors with downtown Los Angeles and paralleling Alameda Street. Notwithstanding any other provision of law, and consistent with the authority granted to the department over grade separations along the line pursuant to the intent of subdivision (b) of Section 99624, the department and the Los Angeles and Long Beach Harbor Commissions shall be the only state and local agencies with authority to make decisions regarding the timing and necessity of grade separations along the Alameda-San Pedro branch line. These agencies shall consult with the joint powers agency established to represent cities along the line.

Notwithstanding any other provision of law, the Los Angeles and Long Beach Harbor Commissions may, in any requests for competitive bids or in any negotiations for contracts to construct and equip a consolidated rail corridor along the line and related on-dock container loading facilities, require potential bidders and contractors to offer and provide private financing for all or a portion of the costs of construction and equipping those corridor and related facilities.

(C) Five hundred million dollars (\$500,000,000) shall be made available to the San Francisco Bay Area-Los Angeles Rail Corridor Joint Powers Agency, created pursuant to Section 250000, for fast train intercity, tourist, commuter, and urban rail service between and to the San Francisco Bay Area, San Jose, Gilroy, Watsonville, Salinas, Santa Cruz, San Luis Obispo, Monterey, Santa Barbara, San Buenaventura, Burbank, and Los Angeles. Operation of fast train intercity rail services by the agency and maintenance of the line shall be funded from funds available to the department for intercity rail service operations, and shall be given equal priority for funding with other intercity rail service operations. High priority shall be given to immediately providing funds to Amtrak to operate at least a second daily frequency on the Coast Starlight route, and additional local intercity trains from San Luis Obispo to Los Angeles. As used in this subparagraph, "fast train intercity service" means passenger rail service capable of attaining speeds of 110 miles per hour. It shall be the goal of the state to provide fast train intercity service between Los Angeles and the San Francisco Bay Area via coastline communities by the year 1999. The funds available pursuant to this subparagraph shall be allocated as follows:

(i) Not more than two hundred million dollars (\$200,000,000) for the acquisition of railroad rights-of-way. A joint appraisal of the value of the rights-of-way to be acquired from Gilroy to the Ventura-Los Angeles County line shall be conducted by the joint powers agency and the affected railroad. Up to two hundred thousand dollars (\$200,000) may be allocated by the agency for purposes of this appraisal.

(ii) Not more than three hundred million dollars (\$300,000,000) for track and other capital improvements.

(iii) Not more than one hundred million dollars (\$100,000,000) for the acquisition of rolling stock capable of attaining speeds of 110 miles per hour, and other necessary equipment. The rolling stock and other equipment acquired pursuant to this subparagraph shall be the equipment and rolling stock designed to meet the requirements of Sections 99603 and 99649, appropriately modified to meet the speed requirements of this subparagraph.

(D) Five grants of up to five hundred thousand dollars (\$500,000) each shall be made available not later than June 30, 1995, on a competitive basis to transit operators, subject to the approval of the appropriate regional transportation planning agency or county transportation commission, serving at least one urbanized area with a population of at least 100,000 that is not currently served or programmed to be served by a light rail system, to determine the feasibility of implementing such a system and to identify the most promising potential light rail corridors.

(E) One million dollars (\$1,000,000) to the Metropolitan Transportation Commission to determine the feasibility of restoring rail service to the Oakland-San Francisco Bay Bridge without reducing the capacity of the bridge for automobile traffic.

(F) Two hundred million dollars (\$200,000,000) to the Peninsula Commute Service Joint Powers Board for the extension of CalTrain service to a downtown San Francisco terminal at or in the immediate vicinity of the Transbay Terminal. The goal of CalTrain service shall include headways of thirty minutes or less during the day and during and between commute periods. The downtown San Francisco terminal shall be designed so as not to preclude any future high speed rail service.

(G) Not less than 5 percent of the funds available pursuant to subdivision (a) of Section 99390 shall be allocated annually to the department for capital outlay projects to improve intercity passenger rail service. These funds shall be in addition to other funds specified in this section for intercity rail projects.

(H) One hundred forty million dollars (\$140,000,000) shall be allocated to the department and local agencies for the acquisition of rights-of-way and trackage rights which are important for present or future passenger rail service in the reasonably near future.

(I) Sixty million dollars (\$60,000,000) shall be allocated to the department for the improvement of the Los Angeles-Orange County-San Diego passenger rail corridor.

(J) Seventy million dollars (\$70,000,000) shall be allocated to the county transportation commissions of Riverside and San Bernardino Counties, based on their respective populations, for capital outlay projects for the improvement of intercity and commuter rail service serving Riverside and San Bernardino Counties.

(K) Five million dollars (\$5,000,000) shall be allocated to the department for the restoration of rail service between San Diego and Imperial Counties.

(L) Five hundred thousand dollars (\$500,000) shall be allocated to the department to undertake a feasibility study of expanded intercity rail service between Sacramento, Redding, and the City of Mt. Shasta. Upon completion of that study using these or other funds, any remaining funds allocated by this subparagraph can be used to implement the service.

(M) Five hundred thousand dollars (\$500,000) shall be allocated to the department to undertake a feasibility study of expanded intercity rail service between Calexico and Los Angeles via the Coachella Valley and Riverside. Upon completion of that study using these or other funds, any remaining funds allocated by this subparagraph can be used to implement the service.

(N) Twenty million dollars (\$20,000,000) shall be allocated to the Port of Oakland for the construction of the Joint Intermodal Terminal to facilitate the loading and rail shipment of containerized goods from port facilities.

(2) The committee shall program the funds authorized to be spent pursuant to

subdivision (a) of Section 99390 that are not required for projects authorized pursuant to paragraph (1) to the recipient agencies listed in this paragraph, based on their share of the state population within their boundaries. The committee shall use population figures provided by the Department of Finance. Unless inconsistent with the act, applications for grants pursuant to this paragraph shall comply with the requirements of Chapter 4 (commencing with Section 99660) of Part 11.5, as applicable to this paragraph, except that Section 99665 shall not apply to applications for grants. The selection of rail stations for the passenger rail projects funded pursuant to this paragraph shall to the greatest extent practicable be located and designed to maximize access to and from the stations by modes other than the automobile, and to promote transit use within highly urbanized areas.

After January 1, 2010, recipient agencies may propose changes to the priorities described in the paragraphs that apply to those agencies, and the committee may approve the changes if they are consistent with the other requirements and purposes of this paragraph and the act. Where priorities are established within recipient agencies with respect to projects or programs, funds available in each year pursuant to this paragraph shall go to fund projects or programs identified as highest priority that have a need for funds in that year. Funds may be allocated to lower priorities, and thereafter to the priorities specified below, if the higher priorities do not have a need for funds in that year, as determined by the recipient agency. Unless separate priorities are specified in this paragraph for a recipient agency, all agencies receiving funds pursuant to this paragraph shall receive funds for projects in the following order of priority.

First priority shall be given to electrification projects, and to urban rail transit, commuter, and intercity rail capital outlay projects. Second priority shall be given to acquisition of clean fuel buses and rail rolling stock, and electric buses and urban rail transit vehicles. Third priority shall be given to the projects and purposes authorized by subdivisions (b), (d), (f), (g), (h), and (i) of Section 7103 of the Revenue and Taxation Code, and transit operations pursuant to subdivision (b) of Section 99390. Funds available pursuant to this paragraph in each year shall be allocated to fund projects or programs identified as highest priority that have a need for funds in that year. Funds may be allocated to lower priorities if the higher priorities do not have a need for funds in that year, as determined by the recipient agency.

The committee shall determine that the expenditure of the funds pursuant to this paragraph will, to the maximum extent practicable, further the goal of providing a fully integrated bus, rail, air, and waterborne transit system that increases passenger convenience and complements the state's substantial existing transportation investments.

(A) San Diego Association of Governments. The following projects shall receive equal high priority for funding:

(i) A tunnel or other projects to increase the speed of commuter rail service in San Diego County.

(ii) Expansion of light rail service.

(B) Imperial County Board of Supervisors.

(C) Orange County Transportation Authority. The first priority for funding shall be for the design, engineering, and construction of an initial segment of an urban rail transit system within Orange County.

(D) Riverside County Transportation Commission. The following projects shall receive the same highest priority for funding: capital improvements and rolling stock on the passenger rail lines between Riverside and San Jacinto, between Riverside and Irvine, between Riverside and Fullerton, and between Riverside and Los Angeles via Ontario.

(E) San Bernardino County Transportation Commission.

(F) Los Angeles County Metropolitan Transportation Authority. No more than ten percent of the annual allocation to the authority pursuant to this paragraph shall be for the Red Line extension, regardless of the priorities set by the authority pursuant to clause (ii).

(i) Extension of the Blue Line light rail line from Los Angeles to East Pasadena in the San Gabriel Valley shall receive the highest priority in funding.

(ii) Second priority shall be given to construct and extend urban rail transit lines, and for construction of and acquisition of rolling stock and equipment for electric trolley bus lines and electric bus lines. The authority shall establish the priority order of expenditures pursuant to this clause.

(G) Ventura County Transportation Commission. First priority for funding shall be for extension to the City of San Buenaventura of existing commuter rail service.

(H) Santa Barbara County Association of Governments.

(I) San Luis Obispo County Council of Governments.

(J) A joint application submitted by the regional transportation planning agencies of Santa Cruz, San Benito, and Monterey Counties, or separate applications from any one of these counties if the proposed projects are specific to one county.

(K) A joint application submitted by the regional transportation planning agencies of Kern, Tulare, Kings, Fresno, Madera, Merced, Stanislaus, and San Joaquin Counties. Improvements to the intercity rail transportation corridor connecting Bakersfield and Stockton shall receive highest priority for funding. The committee shall award funds to the appropriate agencies to undertake a study of intercity rail transportation service on the rail route between Exeter and Huron, including Visalia, Hanford, and other intermediate points, and shall award funds to implement the service if it is found by the committee to be feasible from financial and engineering perspectives.

(L) A joint application submitted by the regional transportation planning agencies of Tuolumne, Amador, Calaveras, Mariposa, Inyo, Mono, and Alpine Counties.

(M) Sacramento Area Council of Governments.

(i) Highest priority for funding shall be to the Sacramento Regional Transit

District to extend light rail service south from Sacramento, serving Sacramento City College.

(ii) Second priority shall be given equally to the extension of light rail service to Antelope Road, Folsom, and Sacramento Metropolitan Airport.

(iii) Third priority shall be given equally to the extension of light rail service from Antelope Road to Roseville, provision of passenger rail service from Sacramento to Colfax, Davis, Truckee, Woodland, and Marysville-Yuba City and to acquisition of a rail right-of-way from Folsom to Placerville.

(N) A joint application submitted by the regional transportation planning agencies of El Dorado, Yolo, Placer, Nevada, Sutter and Yuba Counties. Highest priority shall be given equally to the extension of light rail service from Antelope Road to Roseville, provision of passenger rail service to Sacramento from Colfax, Davis, Truckee, Woodland, and Marysville-Yuba City, and to acquisition of a rail right-of-way from Folsom to Placerville.

(O) A joint application submitted by the regional transportation planning agencies of Colusa, Glenn, Butte, Tehama, Shasta, Trinity, Lake, and Siskiyou Counties.

(P) A joint application submitted by the regional transportation planning agencies of Sierra, Plumas, Modoc, and Lassen Counties.

(Q) A joint application submitted by the regional transportation planning agencies of Del Norte, Humboldt, and Mendocino Counties. The first priority for funding shall be the rehabilitation of the rail lines owned by the North Coast Railroad Authority.

(R) Metropolitan Transportation Commission. Of the funds received by the Metropolitan Transportation Commission, two million dollars (\$2,000,000) a year, increasing at a rate equal to the rate of increase in the Consumer Price Index, may be used to fund projects and studies related to improving the efficiency of public transit. This subparagraph shall not be interpreted in a way which promotes privatization of public transit systems.

(i) The following projects shall receive equal highest priority in funding:

(I) Construction or improvement of a passenger rail corridor connecting the Santa Clara County light rail system and a station on the San Francisco Bay Area Rapid Transit District-Fremont line.

(II) A high priority light rail line identified by the San Francisco Public Utilities Commission.

(III) A high priority light rail line identified by the Alameda-Contra Costa Transit District's light rail corridor study.

(IV) Rehabilitation of the San Francisco Bay Area Rapid Transit District's existing fleet of rolling stock.

(V) The "Metro East" light rail maintenance and storage facility in San Francisco.

(VI) A high priority light rail project identified by the Santa Clara County Transit District.

(ii) After the projects in clause (i) are completed, further expenditures for additional public transportation projects, including exclusive public mass transit guideways, shall be for priorities adopted by the Metropolitan Transportation Commission, consistent with the requirements of this clause. Any expenditures pursuant to this clause for passenger rail projects shall be made according to the following equal priorities: (1) cost effectiveness of the project measured in terms of least cost per new transit rider, (2) rehabilitation and other operational improvements to existing passenger rail service, (3) projects that have the lowest percentage of trips to and from the stations by automobile, and (4) projects which promote transit use within highly urbanized areas.

(3) (A) Notwithstanding any other requirement of this section, the committee may allocate not more than ten percent of the funds available annually pursuant to subdivision (a) of Section 99390, at the request of the department, for construction of a new, separate, high-speed intercity passenger main rail line connecting Los Angeles, Bakersfield, Fresno, and San Jose, with connections to San Francisco via the CalTrain corridor, and connections to Oakland. Funding may also be allocated for construction and operation of a new, separate, high-speed intercity passenger rail line connecting the main line to Stockton and Sacramento. These funds shall be deployed in a manner that maximizes private investment in that line. As used in this paragraph, "high-speed" train service means passenger rail service that attains a speed of at least 150 miles per hour.

It shall be the goal of the state to provide high-speed train service, if sufficient funds become available, between Los Angeles and the San Francisco Bay Area via the San Joaquin Valley by the year 2010. The committee shall determine whether to allocate funds pursuant to this paragraph not later than December 31, 1998, but the timing of the allocation of the funds shall be at the discretion of the committee.

(B) The committee may allocate not more than twenty million dollars (\$20,000,000) per year of the funds available annually from the transit capital improvement program established pursuant to Section 99317 for not more than thirty years for the purposes of subparagraph (A). The allocation made pursuant to this subparagraph shall commence at the discretion of the committee, if the committee decides to allocate funds pursuant to subparagraph (A).

99391.7. (a) For urban rail transit projects as defined in Section 164.50 of the Streets and Highways Code, the state funding share provided pursuant to Section 99391 shall be 100 percent for the first fifteen million dollars (\$15,000,000), increasing at a rate equal to the rate of increase in the Consumer Price Index, per mile of new construction. For the portion of costs of urban rail transit projects in excess of fifteen million dollars (\$15,000,000) per mile, increasing at a rate equal to the rate of increase in the Consumer Price Index, the committee shall require 50 percent funding from nonstate sources.

(b) Intercity and commuter rail projects shall not require any matching nonstate funds.

(c) Notwithstanding any other provision of law, or the requirements of subdivision (a), funds received pursuant to this article by a local agency may be

used to meet the matching fund requirements of Part 11.5 (commencing with Section 99600).

99393. (a) Funding pursuant to subdivision (b) of Section 99393.4 shall be available only for allocation to transit operators in an "area" of "apportionment", as those terms are used in Section 99231, that has remaining transit needs after local transportation funds and state transit assistance funds have been fully allocated to transit purposes. All funds that are not allocated for transit operations pursuant to this section shall be transferred for allocation pursuant to Section 191.1 of the Streets and Highways Code for highway-railroad grade separations, as provided by that section.

(b) The committee shall notify the Controller of the amount of funding required for transit operating needs of statewide significance pursuant to subdivision (a) of Section 99393.4. The Controller shall apportion the remaining funds pursuant to subdivision (b) of Section 99393.4. The Controller shall estimate revenue likely to be received by agencies receiving funding pursuant to Section 99393.4 and provide this information to the agencies.

(c) First priority in the expenditure of funds by local operators pursuant to paragraphs (1) and (2) of subdivision (b) of Section 99393.4 shall be for meeting the needs of disabled persons pursuant to the requirements of the federal Americans with Disabilities Act (P.L. 101-336); for the continuance of paratransit services provided pursuant to the provisions of Chapter 4 (commencing with Section 99200) to persons 65 years of age or older; for prevention of crime, gang activity, and graffiti on public transit systems and vehicles; and for increasing the efficiency and cost effectiveness of transit system operations. This subdivision shall not be interpreted in a way that promotes privatization of public transit systems.

(d) At least 90 percent of all funds received by any agency pursuant to this section shall be expended to provide direct transit service to the public, consistent with the other requirements of this section.

99393.1. In order to receive an allocation for transit operating funds pursuant to Sections 99313, 99314, and 99393, a transit operator shall be required to be in compliance with all of the following, except that the committee, after a public hearing, may waive or modify the requirements of all or part of subdivisions (b) and (c) on a substantial showing by the operator that either or both of these requirements are financially or otherwise infeasible. The committee may delegate its power to waive these requirements as they apply to transit operators that are entirely within the jurisdiction of a single transportation planning agency to that transportation planning agency. Guidelines governing the implementation of this section shall be adopted by the committee in consultation with regional transportation planning agencies and operators and public transit users.

(a) The operator has adopted and is implementing an anti-graffiti policy which has as a goal that no transit vehicle containing any graffiti is dispatched at the beginning of a service day unless the graffiti has first been removed.

(b) The operator offers free transfers on payment of a regular fare valid for use on its system for a minimum of 90 minutes.

(c) The operator offers a day pass, a monthly pass, and an annual pass valid for unlimited rides on its system for the time specified. Passes may be offered for one or more zones, in addition to the operator's entire system. Operators shall accept credit cards and provide a billing option for discounted annual passes. This subdivision shall apply only to operators with average daily weekday ridership of more than 5,000 unlinked trips, and not to operators whose fare structures are based on distance.

(d) The operator accepts the California Pass authorized pursuant to Section 14036.6 of the Government Code for travel on its system without requiring payment of an additional fare.

(e) Free transfers shall be offered to transit customers connecting from an urban rail transit or commuter rail line to a local bus system serving a rail station. Rail and bus operators shall be reimbursed for their reasonable costs of providing and accepting rail-to-bus transfers from funds eligible for allocation for this purpose by the appropriate transportation planning agency, county transportation commission, or transit development board. Each allocating agency, as appropriate, shall establish guidelines governing the implementation of this subdivision, including the amount of reimbursement to operators. Operators of bus systems shall have as a goal to coordinate bus schedules to maximize timely connections between buses and trains.

(f) At the request of a campus of the University of California, the California State University, a community college, or any other institution of higher learning, a transit operator shall enter into an agreement with the university, college, or institution to provide unlimited use of its system at no charge to students with a valid registration card in exchange for a regular lump-sum payment by the university, college, or institution to the operator sufficient to cover the costs to the operator of the agreement. The implementation of the agreement shall be a high priority for use of parking fees and parking penalties received by a college campus.

(g) The operator offers at least a 50 percent discount from the regular fare, rounded to the nearest quarter dollar, to persons 65 years of age and older, and to disabled persons, at a minimum during off-peak travel periods on service available to the general public. The committee, after a public hearing, may waive or modify the requirements of Sections 99268.3, 99268.4, and 99268.9, whichever are applicable, if compliance with this subdivision causes violation of the applicable farebox recovery requirements.

(h) The operator of a passenger rail service has adopted and is implementing a highway-railroad grade crossing safety program that includes the use of automated enforcement technology at grade crossings with 5,000 or more average weekday vehicle crossings to reduce accidents, fatalities, and injuries at grade crossings. The operator shall agree to acquire and implement this technology at existing grade crossings not later than December 31, 2000, and at new grade crossings at the time of construction. Acquisition and implementation of this technology may be funded by funds provided to operators pursuant to Sections 99390, 99391, and 99393. The committee may waive this requirement at

individual highway-railroad grade crossings on a showing by the operator that the requirement is not necessary in order to reduce accidents, fatalities, and injuries at that grade crossing.

99393.3. Funding for transit operations available pursuant to this article shall not be allocated to any area of apportionment where a finding has been made by the transportation planning agency pursuant to Section 99401.5 that there are either no unmet transit needs or no unmet transit needs that are reasonable to meet within that jurisdiction. As used in this section, "area" has the same meaning as in Section 99231.

99393.4. (a) Funds available pursuant to Section 99393 shall be allocated first to the following programs of statewide priority:

(1) Upon a finding that the National Park Service will implement a plan to restrict entry of private vehicles into Yosemite Valley, other than those carrying persons with confirmed camping reservations and disabled persons, such funds as are necessary, but not exceeding four million dollars (\$4,000,000) per year, increasing at a rate equal to the rate of increase in the Consumer Price Index, to operate a frequent and convenient public transportation system within the park, connecting the City of Merced with Yosemite Valley, shall be made available to the department for allocation to the National Park Service. In order to be eligible to receive funds pursuant to this paragraph, the National Park Service shall maintain a level of funding for public transit service at least equal to the funding provided in 1993-94, increasing at a rate equal to the rate of increase in the Consumer Price Index, for the park shuttle services.

(2) Upon a finding that the Tahoe Transportation District authorized pursuant to Section 66801 of the Government Code has been activated, funds not exceeding one million dollars (\$1,000,000) per year, increasing at a rate equal to the rate of increase in the Consumer Price Index, shall be available for a unified transit system serving the California portion of the Lake Tahoe Basin and the City of Truckee. In order to be eligible to receive an allocation of funds pursuant to this paragraph, the Tahoe Transportation District shall certify to the committee that it is scheduled to receive all of the local transportation funds and state transit assistance funds eligible to be used for public transit purposes that are apportioned to its area.

(b) Of the remaining funds available pursuant to Section 99393, the funds shall be distributed as follows:

(1) One-third of the funds shall be allocated by the Controller pursuant to the formula set forth in Section 99313.

(2) One-third of the funds shall be allocated by the Controller pursuant to the formula set forth in Section 99314.

(3) (A) Notwithstanding the priorities set forth in subdivision (c) of Section 99393, one-third of the funds shall be allocated by the Controller using the formula set forth in Section 99313, and shall be used to increase the frequency of service along routes that have the greatest potential to increase ridership if that service frequency is increased. Eligible projects shall include only bus and urban rail transit routes that have basic weekday service frequency of not less than 30 minutes and commuter rail routes that have basic weekday service frequency of not less than 60 minutes during peak hours. On rail routes, frequency augmentations may take place at hours other than the peak if it is determined that frequency augmentations will increase the overall passenger utilization of the service. If it is not practicable to use the funds for this purpose, they shall be used to increase the frequency of basic weekday service on bus and rail routes that have the greatest potential to increase ridership if the service frequency is increased. Allocations made pursuant to this paragraph may include funds necessary for increases in paratransit service, as required by the federal Americans with Disabilities Act (P.L. 101-336), that are complementary to the service provided as a result of the allocation.

The committee shall adopt guidelines for the distribution of these funds by the recipient agencies, based on public hearings, to implement this subdivision. The guidelines shall prescribe methods for evaluating the success of programs funded pursuant to this paragraph in increasing ridership. The committee shall ensure that multi-county or multi-agency rail commuter systems are included in the guidelines with equal standing with bus and rail operators included within each agency or region.

(B) Funds allocated pursuant to subparagraph (A) to increase service frequency shall continue to be allocated to the same programs in succeeding years if the programs increase and sustain ridership to or near levels at least as high as projected in the original grant application.

(c) All administrative and eligibility provisions applicable to the State Transit Assistance program shall be applicable to the funds allocated pursuant to this section, including, but not limited to, the provisions in Sections 99312.7, 99313.6, 99313.7, 99314.3, 99314.6, and 99314.7, as applicable. The funds from this section shall be deposited in special subaccounts of the state transit assistance funds created pursuant to Section 99313.6.

99393.5. Local public agencies that acquire or have acquired rail rights-of-way with state funding participation shall, if those lines are used jointly for commuter and intercity rail services, work cooperatively with the department and Amtrak to properly schedule all trains in accordance with scheduling practices adopted by major railroads for similar corridors.

Where commuter service exists, intercity trains shall generally be scheduled to serve a minimum number of intermediate stops and shall normally run on a regular schedule. Local agencies, the department, and Amtrak shall consult with one another prior to making scheduling decisions. Unresolved disputes between local agencies, and between local agencies and the department shall be arbitrated through a procedure approved by the committee. No party advocating one of the disputed positions shall be designated an arbitrator in the mediation efforts. Local agencies shall also provide access to ticket machines for intercity ticket sales, on such terms as the parties may agree, unless such access subjects the agencies to additional federal regulation. Commuter and intercity service shall be operated in

a manner that maximizes public convenience.

99396. All capital outlay funds allocated by the committee or the commission, and all capital outlay funds expended by the department shall be subject to the requirements of this section.

(a) The department, in expending capital outlay funds, and any public agencies receiving capital outlay funds from the commission, the committee, or the department may not expend more than 20 percent of those funds on administrative overhead. At least 80 percent of those funds received must be spent on actual project construction, including acquisition of rights-of-way. The committee, the commission, and the department shall prepare a report showing the amount of the capital outlay funds saved through implementation of this section.

(b) The Controller shall annually audit compliance with the requirements of subdivision (a) by the department and any other agencies receiving capital outlay funds. The commission shall advance to the Controller the costs estimated by the Controller in performing the audits for the ensuing fiscal year and for the other costs incurred by the Controller pursuant to the act. If the Controller finds that the department or another agency receiving capital outlay funds has not complied with the requirements of subdivision (a), the Controller may take any necessary action, including litigation, issuing a direct order, or offsetting any funds expended in violation of this section in subsequent fiscal years, pursuant to Section 12419.5 of the Government Code. The Controller may also adopt regulations to further define "administrative overhead" as used in this section. The adoption and amendment of regulations pursuant to this subdivision shall not be subject to the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(c) If there is any conflict between this section and Section 14524.16 of the Government Code, this section shall prevail.

99397. (a) The committee may request the Treasurer to sell, and the Treasurer may sell, revenue bonds secured by the revenues allotted to capital outlay projects pursuant to this article on a schedule that will provide the funds when needed as identified in the program described in this article, including the funds identified in subparagraph (B) of paragraph (3) of subdivision (c) of Section 99391. Nothing in this section authorizes the sale of general obligation bonds without a vote of the people.

(b) The recipient agencies named in subdivision (c) of Section 99391 may request the committee to request the Treasurer to sell revenue bonds for the construction of projects funded pursuant to that subdivision consistent with a reasonable assumption about revenues that would be allocated to that regional agency, and the committee may make that request if it is consistent with the requirements of subdivision (a) and the remainder of the act.

99398. (a) This section shall not become operative if a general obligation bond act primarily for rail or other transportation purposes appears on the General Election or other statewide ballot in November 1994.

(b) (1) Notwithstanding Section 13340 of the Government Code or any other provision of law, the first 20 percent of revenue available each year from the Retail Sales Tax Fund derived from the additional tax imposed by Sections 6052 and 6201.8 of the Revenue and Taxation Code, pursuant to Section 7103 of the Revenue and Taxation Code, is continuously appropriated to the committee without regard to fiscal years to meet programming commitments made by the commission in the 1992 State Transportation Improvement Program that were intended to have been funded by general obligation bonds issued pursuant to Article 1 (commencing with Section 2703) of Chapter 19 of Division 3 of the Streets and Highways Code.

(2) When a total of one billion dollars (\$1,000,000,000) has been made available to the committee pursuant to this section, all revenues available pursuant to Section 7103 of the Revenue and Taxation Code shall be allocated as provided by that section, and this section shall be inoperative. The State Board of Equalization, in consultation with the Controller, shall adopt regulations to implement this subdivision. The adoption and amendment of regulations pursuant to this subdivision shall not be subject to the requirements of Article 5 (commencing with Section 11346) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.

(c) Notwithstanding Section 99391 and any other provision of law, if this section takes effect, the committee shall, with the funds remaining after the implementation of subdivision (b), give first priority to funding the projects designated in paragraph (1) of subdivision (c) of Section 99391, before funding projects and programs in subdivisions (b) through (i), inclusive, of Section 7103 of the Revenue and Taxation Code and paragraphs (2) and (3) of subdivision (c) of Section 99391.

99398.1. The Legislature may amend this article, by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the act. However, the Legislature may not amend subdivision (c) of Section 99388; Sections 99389, 99390, 99391, 99391.7, and 99393.3; subdivision (a) of Section 99393.4; Section 99398; or this section.

SECTION 17. Article 7.6 (commencing with Section 99399) is added to Chapter 4 of Part 11 of Division 10 of the Public Utilities Code, to read:

Article 7.6. General Provisions Applicable to the Clean Air, Jobs, and Transportation Efficiency Act of 1994

99399. The Clean Air, Jobs, and Transportation Efficiency Act of 1994 consists of Sections 14502.5 and 29531 of the Government Code; Section 25619 of the Public Resources Code; Sections 99232, 99310.5, 99310.6, 99310.7, 99310.8, 99310.9, 99311, 99312, 99315.5, and 99316 of, and Article 7.5 (commencing with Section 99385) of Chapter 4 of Part 11 of Division 10 of, Article 7.6 (commencing with Section 99399) of Chapter 4 of Part 11 of Division 10 of, and Division 26 (commencing with Section 250000) of, the Public Utilities Code; Sections 97.055, 6052, 6201.8, 6480.1, 7102, and 7103 of the Revenue and Taxation Code; and Sections 164.561, 191.1, 195, 196, 197, 199.12, 199.13, 199.14, and 894.5 of the



Streets and Highways Code. For purposes of this article, "act" means the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

99399.1. (a) It is the intent of the People in approving the act that should any statute or amendment to the Constitution be approved on November 8, 1994, that could prevent this act from taking effect, this act shall go into effect, regardless of the passage of any such statute or constitutional amendment, and regardless of the number of votes received by any measure on the November 8, 1994, ballot.

(b) The act shall take effect notwithstanding any other provision of law.

(c) It is the express intent of the voters that the act shall take effect and become operative at 12:01 a.m. on November 8, 1994.

(d) It is the express intent of the voters that the act shall take effect and become operative even if the Constitution is amended at the November 8, 1994, election to prohibit or restrict the enactment of new taxation.

99399.2. If any provision of the act or the application thereof is held invalid, the invalidity shall not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

99399.3. For purposes of the act, the following terms have the following meanings, unless expressly stated otherwise:

(a) "Account" is the Transportation Planning and Development Account in the State Transportation Fund, as continued and created in Section 99310, unless another account is specifically named.

(b) "Administrative overhead" is all noncapital costs incurred through the award of a construction contract. These costs include the costs incurred by outside contractors. With respect to the department, "administrative overhead" includes the prorated share of distributed departmental administration, as identified in the Governor's proposed budget, attributable to project development activities. The calculation of the prorated share of departmental administration shall exclude tort payments, the costs of legal services associated with those payments, and the costs associated with projects for which the department has provided design oversight only, or has not been the responsible agency for project design. In any conflict between this subdivision and its application, and the provisions of Section 14524.16 of the Government Code, the provisions of this subdivision shall prevail.

(c) "Committee" means the Rail Committee of the California Transportation Commission, established pursuant to Section 14502.5 of the Government Code.

(d) "Electrification" means the conversion of bus lines to electrical operation and the creation of new electrically powered bus lines through the purchase of electric vehicles, and the installation of equipment allowing electrically operated buses to have access to a central electric power system. Electrification also means the construction of new electrically powered urban rail transit passenger transportation systems, including acquisition of rolling stock, related infrastructure, and rights-of-way to provide such service. Electrification also includes the acquisition of electric vehicles used to transport the public to and from rail stations.

(e) "Light rail" means an urban rail transit project that uses surface streets or a dedicated right-of-way, but excludes commuter rail and intercity rail projects.

(f) "Mass transportation" means public transportation services and facilities normally provided to or offered to the general public, and services and facilities funded pursuant to subparagraphs (B), (K), and (N) of paragraph (1) of subdivision (c) of Section 99391 and subparagraph (Q) of paragraph (2) of subdivision (c) of Section 99391, and does not include services available only to a restricted group or category of persons, except for community transit services as defined in Section 99275. "Mass transportation" includes public transportation systems, and transportation services for any group, as determined by the transportation planning agency, requiring specialized transportation assistance, as provided in subdivisions (c), (d), and (e) of Section 99400.

(g) "Rail" means projects using standard railroad technology or urban rail transit technology, using tracks consisting of two parallel rails and rolling stock riding on top of the rails. "Rail" also means other urban rail transit technology utilizing rails or monorails if the technology is proven in urban operation.

(h) "Right-of-way" means right-of-way for rail purposes, including separate right-of-way alignments adjacent to existing freight lines.

(i) "State Highway Account" is the State Highway Account in the State Transportation Fund.

(j) "Subaccount" means the Clean Air, Jobs, and Transportation Efficiency Act subaccount of the Transportation Planning and Development Account, established pursuant to Section 99310.6.

(k) "Urban rail transit" is as defined in Section 164.50 of the Streets and Highways Code.

(l) Unless otherwise defined in the act, the definitions in subdivisions (a), (b), (c), (d), (e), (h), (i), and (k) of Section 99602 shall apply to this act. In the case of conflict between the definitions of Section 99602 and this section, the definitions in this section shall prevail as to this act.

99399.4. The act shall be liberally construed to further its purposes, especially with respect to carrying out the intent of the voters expressed in Section 99399.1.

99399.5. Any conflict between a provision in the act and any other provision of law in existence prior to the effective date of the act shall be resolved in favor of the provision in this act.

99399.6. Any ambiguity or uncertainty with respect to the act shall be resolved in a manner that is consistent with the intent and purposes of the act, as expressed in Section 99399.10.

99399.7. Every project undertaken pursuant to the act shall comply with the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

99399.8. The act shall be implemented in the most expeditious manner. All state and local officials shall implement this act to the fullest extent of their authority.

99399.9. Section 5358 of the Elections Code does not apply to the act. The

intent of this section is to assure that the act can be carried out in an orderly and comprehensive manner.

99399.10. The purpose of the act is to provide funds for public transportation construction and operation; to protect transportation funding sources from being diverted for nontransportation purposes; to increase the safety and convenience of the public, the disabled and elderly in their use of California public transportation systems; to reduce the cost of administrative overhead in building transportation systems; to save energy and improve air quality by providing a more efficient transportation system as an alternative to the single passenger vehicle; and to provide jobs and economic development through development and operation of public transportation facilities throughout California.

99399.11. Construction projects or works of improvement for facilities that are paid for in part or in whole using funds from the subaccount or provided by subdivision (c) of Section 7103 of the Revenue and Taxation Code shall be considered public works projects subject to Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code and shall be enforced by the Department of Industrial Relations in the same manner in which it carries out this responsibility under the Labor Code.

99399.14. The allocation of a grant or grants to a state or local agency for a particular project or program pursuant to any provision of this act shall not preclude eligibility for an additional allocation of grant funds to the same state or local agency pursuant to other provisions of this act or any other provision of law, for the same project or program or a different project or program.

99399.15. Any commuter or intercity rail cars purchased with state funds shall be designed to accommodate a minimum of four bicycles per car. The design shall allow seating for passengers in the space designated for bicycles if the space is not needed for bicycles. This section is consistent with the intent of Section 99683, and is not in conflict with that section.

99399.16. The Legislature may amend Sections 99399.11, 99399.14, and 99399.15, by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the act.

99399.17. Any state or local agency that expends any capital outlay funds appropriated by this act shall in the expenditure of those funds, to the maximum extent practicable, utilize the services of the California Conservation Corps and local community conservation corps as defined in Section 14507.5 of the Public Resources Code, or as certified to be eligible by the California Conservation Corps.

SECTION 18. Division 26 (commencing with Section 250000) is added to the Public Utilities Code, to read:

#### DIVISION 26. SAN FRANCISCO BAY AREA-LOS ANGELES RAIL CORRIDOR JOINT POWERS AGENCY

250000. (a) The Counties of Los Angeles, Monterey, San Benito, San Luis Obispo, Santa Barbara, Santa Clara, Santa Cruz, and Ventura shall form the San Francisco Bay Area-Los Angeles Rail Corridor Joint Powers Agency for the purposes of acquiring, constructing, and operating a fast train intercity, tourist, commuter, and urban rail corridor between the San Francisco Bay area and Los Angeles. Each county shall have one vote on the agency's board. Each county shall be represented on the agency's board by its regional transportation planning agency, or county transportation commission in counties with commissions, or the board of supervisors in other counties in regions with statutorily created multi-county regional transportation planning agencies. It shall be the goal of the joint powers agency to establish fast train intercity passenger rail service capable of transporting passengers between the San Francisco Bay area and Los Angeles in less than six hours. Funds previously designated pursuant to Part 11.5 (commencing with Section 99600) of Division 10 for the member counties of the joint powers agency may also be utilized for this purpose, and for the purpose of urban rail systems between Watsonville Junction and Santa Cruz, and between Monterey and the main coast line. The agency shall coordinate with the Department of Transportation, Amtrak, the Association of Monterey Bay Area Governments, and transportation agencies and operators representing the Counties of Alameda, Contra Costa, and San Mateo and the City and County of San Francisco in order to assure appropriate interconnections with other rail and bus service.

(b) The San Francisco Bay Area-Los Angeles Rail Corridor Joint Powers Agency shall have the following powers:

(1) To acquire real and personal property of every kind for passenger rail purposes by grant, gift, devise, lease, purchase or eminent domain, and to hold, use, sell, lease, or transfer that property.

(2) To enter into any contract necessary to carry out its powers including any contract with the Department of Transportation, Amtrak or any private entity to operate train service.

(3) To establish or change rates, charges, and services. The Public Utilities Commission shall have no jurisdiction over the joint powers agency or any of its activities except as to matters of public safety.

(4) To apply for and receive additional local, state, and federal funds for passenger rail purposes.

(5) To indemnify and defend any railroad corporation, regardless of its negligence, that operates passenger rail services for the joint powers agency pursuant to contract.

(6) To appoint an executive officer, and to employ staff and legal counsel.

(7) To sue and be sued.

(c) The Legislature may amend subdivisions (a) and (b) of this section by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994, and does not diminish the powers of the agency with respect to the acquisition and operation of the rail corridor.

SECTION 19. Section 97.055 is added to the Revenue and Taxation Code, to read:

97.055. (a) *Locally generated property tax revenues have been and continue to be an important source of revenue for many local transportation agencies throughout California.*

(b) *The Legislature shall not reduce or reallocate the percentage of property tax revenues allocated to local transportation agencies, including single county and multiple county agencies, regardless of the composition of the governing boards of those agencies, below the percentage of property tax allocations made to those agencies for the 1992-93 fiscal year.*

(c) *If a statute directly or indirectly reduces or reallocates any property tax revenues required by this section to be allocated to one or more local transportation agencies so that the percentage of property tax revenues allocated to that agency is reduced below the level provided in subdivision (b), within ninety days of the effective date of the statute the Controller shall transfer to that agency, from the General Fund, an amount equal to the difference between the reduced or reallocated property tax allocation and the amount of property tax the agency would otherwise have been entitled to receive had the reduction or reallocation not been made. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision.*

SECTION 20. Section 6052 is added to the Revenue and Taxation Code, to read:

6052. (a) *In addition to the taxes imposed by the other provisions of this article, for the privilege of selling motor vehicle fuel, as defined by Section 6480, at retail, a tax at the rate of four percent is hereby imposed upon all retailers on the gross receipts of the retailer from the sale of motor vehicle fuel at retail in this state on or after January 1, 1995. The tax shall be subject to the prepayment requirements set forth in Section 6480.1.*

(b) *This tax is imposed pursuant to the Sales and Use Tax Law.*

SECTION 21. Section 6201.8 is added to the Revenue and Taxation Code, to read:

6201.8. (a) *In addition to the taxes imposed by other provisions of this article, an excise tax is hereby imposed on the storage, use or other consumption in this state of motor vehicle fuel, as defined in Section 6480, purchased from any retailer on or after January 1, 1995, for storage, use, or other consumption in this state, at the rate of four percent of the sales price of the property.*

(b) *This tax is imposed pursuant to the Sales and Use Tax Law.*

SECTION 22. Section 6480.1 of the Revenue and Taxation Code is amended to read:

6480.1. (a) After service of written notification by the board, on the first distribution in this state of motor vehicle fuel subject to the motor vehicle fuel license tax, the distributor shall collect prepayment of retail sales tax from the person to whom the motor vehicle fuel is distributed. The prepayment required to be collected by the distributor constitutes a debt owed by the distributor to this state until paid to the board, until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the retail sales tax to the board, or until a distributor or broker who has consumed the fuel has paid the use tax to the board. Each distributor shall report and pay the prepayment amounts to the board, on a form prescribed by the board, in the period in which the fuel is distributed. On each subsequent distribution of that motor vehicle fuel, each seller, other than the retailer, shall collect from his or her purchaser a prepayment computed using the rate applicable at the time of distribution. Each distributor shall provide his or her purchaser with a receipt or invoice for the collection of the prepayment amounts which shall be separately stated thereon.

(b) After service of written notification by the board, the broker shall collect prepayment of the retail sales tax from the person to whom the motor vehicle fuel is transferred. The prepayment required to be collected by the broker constitutes a debt owed by the broker to the state until paid to the board, or until satisfactory proof has been submitted to prove that the retailer of the fuel has paid the tax to the board. Each broker shall provide his or her purchaser with a receipt or invoice for the collection of the prepayment amounts which shall be separately stated thereon.

Each broker shall report and pay the prepayment amounts to the board, on a form prescribed by the board, in the period in which the fuel is distributed. The amount of prepayment paid by the broker to his or her vendor shall constitute a credit against the amount of prepayment required to be collected and remitted by the broker to the board.

(c) A distributor or broker who pays the prepayment and issues a resale certificate to the seller, but subsequently consumes the fuel, shall be entitled to a credit against his or her sales and use taxes due and payable for the period in which the prepayment was made, provided that he or she reports and pays the use tax to the board on the consumption of that fuel.

(d) The amount of a the prepayment paid by the retailer or a distributor or broker who has consumed the fuel to the seller from whom he or she acquired the fuel shall constitute a credit against his or her sales and use taxes due and payable for the period in which the distribution was made. Failure of the distributor or broker to report prepayments or the distributor's or broker's failure to comply with any other duty under this article shall not constitute grounds for denial of the credit to the retailer, distributor, or broker, either on a temporary or permanent basis or otherwise. The retailer, distributor, or broker shall be entitled to the credit to the extent of the amount prepaid to his or her supplier as evidenced by purchase documents, invoices, or receipts stating separately the amount of tax prepayment.

(e) The rate of the prepayment required to be collected during the period from July 1, 1986, through March 31, 1987, shall be four cents (\$0.04) per gallon of motor vehicle fuel distributed or transferred.

(f) On April 1 of each succeeding year, the rate per gallon, rounded to the nearest one-half of one cent, of the required prepayment shall be established by

the board based upon 80 percent of the combined state and local sales tax rate established by Sections 6051, 6051.2, 6051.3, 6052, and 7202 on the arithmetic average selling price (excluding sales tax) as determined by the State Energy Resources Conservation and Development Commission, in its latest publication of the "Quarterly Oil Report," of all grades of gasoline sold through a self-service gasoline station. The board shall make its determination of the rate no later than November 1 of the year prior to the effective date of the new rate. Immediately upon making its determination and setting of the rate, the board shall each year, no later than January 1, notify by mail every distributor, broker, and retailer of motor vehicle fuel. In the event the price of fuel decreases or increases, and the established rate results in prepayments which consistently exceed or are significantly lower than the retailers' sales tax liability, the board may readjust the rate.

(g) *The Legislature may amend subdivisions (a) through (f) of this section by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is not inconsistent with the Clean Air, Jobs, and Transportation Efficiency Act of 1994, and the purposes of that act, as specified in Section 99399.10 of the Public Utilities Code.*

SECTION 23. Section 7102 of the Revenue and Taxation Code is amended to read:

7102. The money in the fund shall, upon order of the Controller, be drawn therefrom for refunds under this part, and pursuant to Section 1793.25 of the Civil Code, or be transferred in the following manner:

(a) (1) All revenues, less refunds, derived under this part at the 4¾-percent rate, including the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of motor vehicle fuel which would not have been received if the sales and use tax rate had been 5 percent and if motor vehicle fuel, as defined for purposes of the Motor Vehicle Fuel License Tax Law (Part 2 (commencing with Section 7301)), had been exempt from sales and use taxes, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund. The transfer shall occur on a quarterly basis regardless of estimates for future quarters.

(2) All revenues, less refunds, derived under this part at the 4¾-percent rate, resulting from increasing after December 31, 1989, the rate of tax imposed pursuant to the Motor Vehicle Fuel License Tax Law on motor vehicle fuel, as defined for purposes of that law, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(3) All revenues, less refunds, derived under this part at the 4¾-percent rate from the imposition of sales and use taxes on fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.

(4) ~~All revenues, less refunds, derived under this part from a rate of more than 4¾ percent pursuant to Sections 6051.1 and 6201.1 for the period December 1, 1989, to June 5, 1990, inclusive, shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code. All revenues, less refunds, derived under this part at the 4¾-percent rate, resulting from any increase after January 1, 1993 in the rate of any tax imposed by the United States on motor vehicle fuel, as that term is defined in Section 7304, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund.~~

(5) All revenues, less refunds, derived under this part from a rate of more than 4¾ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of tangible personal property other than fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(6) All revenues, less refunds, derived under this part from a rate of more than 4¾ percent pursuant to Sections 6051.1 and 6201.1 for the period June 6, 1990, to December 31, 1990, inclusive, which is attributable to the imposition of sales and use taxes with respect to the sale, storage, use, or other consumption of fuel, as defined for purposes of the Use Fuel Tax Law (Part 3 (commencing with Section 8601)), shall be transferred to the Disaster Relief Fund created by Section 16419 of the Government Code.

(7) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.2 and 6201.2 shall be transferred to the Sales Tax Account of the Local Revenue Fund for allocation to cities and counties as prescribed by statute.

(8) All revenues, less refunds, derived under this part from the taxes imposed pursuant to Sections 6051.6 and 6201.6 shall be transferred to the Interim Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(9) All revenues, less refunds, derived from the taxes imposed pursuant to Section 35 of Article XIII of the California Constitution shall be transferred to the Public Safety Account in the Local Public Safety Fund created in Section 30051 of the Government Code for allocation to counties as prescribed by statute.

(10) ~~An amount equal to all revenues, less refunds, derived under this part at a 4¾ percent rate for the period between January 1, 1994, and July 1, 1994, from the increase in sales and use tax revenue attributable to the increase in the rate of the federal motor vehicle fuel tax between January 1, 1993, and the rate in effect on January 1, 1994, shall be estimated by the State Board of Equalization, with the concurrence of the Department of Finance, and an amount equal to that amount, but not exceeding seven million five hundred thousand dollars~~

(\$7,500,000) shall be transferred from the Retail Sales Tax Fund to the Small Business Expansion Fund created by Article 5 (commencing with Section 14030) of Chapter 1 of Part 5 of Division 3 of Title 1 of the Corporations Code.

(b) The balance shall be transferred to the General Fund.

(c) The estimates required by subdivision (a) shall be based on taxable transactions occurring during a calendar year, and the transfers required by subdivision (a) shall be made during the fiscal year that commences during that same calendar year. Transfers required by paragraphs (1), (2), and (3), and (4) of subdivision (a) shall be made quarterly.

(d) The Legislature may amend paragraphs (5), (6), (7), (8), and (9) of subdivision (a), and subdivisions (b) and (c) of this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, if the statute is consistent with, and furthers does not reduce funding for the purposes of this section: the Transportation Planning and Development Account and is not in conflict with the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

(e) (1) The purpose of paragraphs (1), (2), (3), and (4) of subdivision (a) is to guarantee and require the transfer of the specified sales and use tax revenues to the Transportation Planning and Development Account to be used as required by Section 99310.5 of the Public Utilities Code. No statute may redirect the specified revenues or estimated revenues, whether from the tax revenue itself or from the Retail Sales Tax Fund. Any statute purporting to accomplish that purpose shall be void and without effect.

(2) If a statute transfers any revenues identified in paragraphs (1), (2), (3), or (4) of subdivision (a) from the tax revenue itself or from the Retail Sales Tax Fund to any other account, fund, or other depository than the Transportation Planning and Development Account, directly or indirectly, within 90 days of the effective date of the statute, the Controller shall transfer an amount equivalent to the amount of the transfer from the General Fund to the Retail Sales Tax Fund, and that amount shall be transferred to the Transportation Planning and Development Account as required by this section. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision.

SECTION 24. Section 7103 is added to the Revenue and Taxation Code, to read:

7103. (a) Notwithstanding Section 7102, or any other provision of law, and except as provided in subdivisions (b) through (i), inclusive, money in the Retail Sales Tax Fund derived from the additional tax imposed by Section 6052 and 6201.8 on motor vehicle fuel, less refunds, after allocating to the board for reimbursement of all the costs incurred in connection with collection of those taxes, shall be transferred quarterly to the Transportation Planning and Development Account, a trust fund in the State Transportation Fund. Notwithstanding Section 99310.8 of the Public Utilities Code, the revenues transferred to the Transportation Planning and Development Account pursuant to this section shall be deposited in the Clean Air, Jobs, and Transportation Efficiency Act Subaccount of that account pursuant to Section 99310.6 of the Public Utilities Code. The revenues identified for transfer in subdivisions (b) through (i) shall be transferred from the Clean Air, Jobs, and Transportation Efficiency Act Subaccount as specified in those subdivisions.

(b) One percent of revenues received each quarter shall be transferred quarterly to the State Highway Account for fog-related safety and other projects, for expenditure as provided in Section 195 of the Streets and Highways Code.

(c) Until January 1, 2000, fifteen percent of revenues received each quarter shall be transferred quarterly to the Seismic Safety Retrofit Account, established pursuant to Article 4.8 (commencing with Section 179) of Chapter 1 of Division 1 of the Streets and Highways Code, to fund seismic upgrades on state highway bridges and publicly owned local bridges, including publicly owned toll bridges and rail bridges. These funds shall be in addition to funds programmed for seismic upgrade purposes in the State Highway Operation and Protection Program and any funds programmed for this purpose from toll bridge accounts and subaccounts established by the Streets and Highways Code on or before January 1, 1994. These funds may not be used to expand the traffic carrying capacity of the bridges. Transfers pursuant to this subdivision shall cease effective January 1, 2000. Notwithstanding any other provision of law, funds transferred into the Seismic Safety Retrofit Account pursuant to this subdivision are continuously appropriated to the Department of Transportation without regard to fiscal year.

(d) Two percent of revenues received each quarter shall be transferred quarterly to the Bicycle and Pedestrian Facilities Account, for expenditure as provided by Section 894.5 of the Streets and Highways Code.

(e) Until January 1, 2010, two percent of revenues received each quarter shall be transferred quarterly to the State Energy Conservation Assistance Account, created pursuant to Section 25416 of the Public Resources Code, for expenditure by the Energy Commission for electric, hybrid-electric, and clean fuel vehicle research, development, demonstration, and commercialization, and to assist in the purchase of these vehicles by public agencies, for expenditure as provided by Section 25619 of the Public Resources Code. Transfers pursuant to this subdivision shall cease effective January 1, 2010.

(f) Two percent of revenues received each quarter shall be transferred quarterly to the State Highway Account, for traffic signal synchronization, and traffic signal preemption devices for exclusive public mass transit guideway vehicles and emergency vehicles for expenditure as provided by Section 196 of the Streets and Highways Code. After January 1, 2010, the California Transportation Commission may, at its discretion, reduce the percentage of revenue allocated to this purpose in any year if it finds that there is a reduced need for expenditures for these programs.

(g) One percent of revenues received each quarter shall be transferred quarterly to the State Highway Account, for commuter carpool information systems and transit planning and development purposes, for expenditure as provided by Section 197 of the Streets and Highways Code.

(h) Two percent of revenues received each quarter shall be transferred quarterly

to the Transportation and Environmental Improvement Program Fund for expenditure pursuant to Section 164.561 of the Streets and Highways Code. This transfer of funds is in addition to, and shall not substitute for, any funds authorized to be expended from the Environmental Enhancement and Mitigation Demonstration Program Fund pursuant to subdivision (a) of Section 164.56 of the Streets and Highways Code.

(i) Two percent of revenues received each quarter shall be transferred quarterly to the State Highway Account, to be made available for highway-railroad grade separations, as provided in Section 191.1 of the Streets and Highways Code.

(j) (1) The purpose of this section is to guarantee and require the transfer of the specified sales and use tax revenues to the Transportation Planning and Development Account and to the accounts specified in subdivisions (b) through (i), inclusive. No statute may redirect the specified revenues or estimated revenues, whether from the tax revenue itself or from the Retail Sales Tax Fund. Any statute purporting to accomplish that purpose shall be void and without effect.

(2) If a statute transfers any revenues identified in this section from the tax revenue itself or from the Retail Sales Tax Fund to any other account, fund, or other depository, directly or indirectly, within 90 days of the effective date of the statute, the Controller shall transfer an amount equivalent to the amount of the transfer from the General Fund to the Retail Sales Tax Fund, and this amount shall be transferred to the Transportation Planning and Development Account pursuant to this section. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision.

SECTION 25. Section 164.561 is added to the Streets and Highways Code, to read:

164.561. (a) Funds transferred to the Transportation and Environmental Improvement Program Fund pursuant to subdivision (h) of Section 7103 of the Revenue and Taxation Code shall be deposited into the Transportation and Environmental Improvement Program Fund, which is hereby created as a trust fund, and shall be continuously appropriated, notwithstanding Section 13340 of the Government Code, to the Resources Agency, without regard to fiscal year, for the purposes provided in this section.

(b) Local, state, and federal agencies and nonprofit organizations may apply for and receive grants, not to exceed five million dollars (\$5,000,000) for any single grant, to undertake environmental enhancement and mitigation projects that are directly or indirectly related to the environmental impact of existing transportation facilities, the modification of existing transportation facilities, or the construction and operation of new transportation facilities.

(c) The following projects are eligible for funding:

(1) Urban forestry projects to offset vehicular emissions of carbon monoxide and urban forestry projects along urban rail transit corridors.

(2) Acquisition, restoration, and enhancement of resource lands to mitigate the loss of, or the detriment to, resource lands from existing or proposed transportation improvements. Projects funded pursuant to this paragraph may also include the acquisition and preservation of lands containing significant archaeological resources to mitigate the loss of, or detriment to, archaeological resources from existing and proposed transportation projects.

(3) Acquisition, restoration, and enhancement of wetlands and riparian habitat, or any combination thereof, to mitigate the impacts of, or detriment from, runoff from roads.

(4) Trails, including paved bicycle paths, which provide exclusive use for bicycles or pedestrians, or both, and trailhead projects.

(5) Acquisition of land for parks.

(6) The purchase of permanent conservation easements from willing sellers on prime agricultural lands, and for the mapping of those lands, to mitigate the loss of, or detriment to, agricultural lands lying within or near the right-of-way acquired for existing or proposed transportation improvements. For purposes of this paragraph, "prime agricultural lands" has the same meaning as provided in subdivision (c) of Section 51201 of the Government Code. Not more than 15 percent of the funds transferred in any particular year to the Transportation and Environmental Improvement Program Fund may be used for this purpose.

(d) Grant proposals shall be submitted to the Resources Agency for evaluation in accordance with procedures and criteria prescribed by the Resources Agency. The Resources Agency shall evaluate proposals submitted to it and prepare a list of proposals for funding which the Resources Agency may revise at any time. Prior to including a proposal on the list, the Resources Agency shall make a finding that the proposal is eligible for funding pursuant to this section. Unless otherwise prohibited by law, grants may include prepayments and advance payments to the grantees for the purpose of implementing projects funded pursuant to this section.

(e) Within the fiscal limitations of this section and subdivision (h) of Section 7103 of the Revenue and Taxation Code, the Resources Agency shall annually award grants to fund proposals which are included on the list prepared pursuant to subdivision (d).

(f) No funds authorized pursuant to this section shall be allocated to the department for its own projects or for highway landscaping or roadside rest projects. No funds authorized pursuant to this section shall be allocated to pay for any environmental mitigation or other mitigation or enhancement costs that would otherwise be required by any laws effective on the date of this enactment or thereafter, including, but not limited to, requirements established under the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

(g) Permanent acquisitions of wildlife habitat by any public agency pursuant to this section may be considered to be an expenditure from the Habitat Conservation Fund, created by Section 2786 of the Fish and Game Code, if the agency receiving the funds makes a finding that each and every expenditure is identical in purpose to at least one of those required by Section 2786 of the Fish and Game Code.

(h) For purposes of this section, "nonprofit organization" means any nonprofit organization qualified pursuant to paragraphs (3) and (4) of subdivision (c) of

Section 501 of the federal Internal Revenue Code.

(i) The Legislature may amend subdivisions (b) through (h) of this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, this section and the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 26. Section 191.1 is added to the Streets and Highways Code, to read:

191.1. (a) Notwithstanding Section 13340 of the Government Code, funds available pursuant to subdivision (i) of Section 7103 of the Revenue and Taxation Code and subdivision (a) of Section 99393 of the Public Utilities Code are continuously appropriated to the commission, without regard to fiscal year, for allocation to cities and counties for grade separation projects as defined in subdivision (a) of Section 2450.

(b) The funds appropriated by subdivision (a) shall be allocated exclusively for projects on mainline railroad lines with not less than four daily passenger trains, where the basic maximum passenger train speed limit is not less than 70 miles per hour. The maximum amount of funding to be allocated to any one project from this source shall not exceed five million dollars (\$5,000,000), increasing at a rate equal to the rate of increase in the Consumer Price Index. Each project shall be subject to the matching requirements of Section 190. Preference shall be given to grade separation projects in counties with populations of less than 200,000 and to the least expensive projects.

(c) Subject to the restrictions in subdivision (b), the commission shall follow the priorities in the grade separation priority list developed by the Public Utilities Commission, pursuant to Section 2452.

(d) In addition to the funds allocated pursuant to this section, a minimum of fifteen million dollars (\$15,000,000) shall continue to be made available annually from the State Highway Account for grade separations pursuant to Section 190.

(e) The Legislature may amend subdivisions (b) and (c) of this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 27. Section 195 is added to the Streets and Highways Code, to read:

(a) Funds transferred to the State Highway Account pursuant to subdivision (b) of Section 7103 of the Revenue and Taxation Code shall be continuously appropriated, notwithstanding Section 13340 of the Government Code, to the commission, without regard to fiscal year, for projects on state highways and local roads that improve safety during fog conditions, including, but not limited to, changeable message signs, limited range radio frequencies, and advance warning devices for railroad crossings. Funds shall be allocated to projects that have the greatest likelihood of saving lives, and shall be in addition to existing levels of expenditures for these types of projects. The commission shall allocate these funds to the department and other transportation agencies, with highest priority going to projects in counties with a population of less than 100,000.

(b) In any year that the commission finds that all the funds allocated by subdivision (b) of Section 7103 of the Revenue and Taxation Code are not needed for projects authorized in subdivision (a), the unneeded funds may be allocated to projects authorized by Sections 164.561, 191.1, and 894.5, within counties with a population of less than 100,000.

(c) The Legislature may amend subdivisions (a) and (b) of this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, this section and the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 28. Section 196 is added to the Streets and Highways Code, to read:

196. (a) Funds transferred to the State Highway Account pursuant to subdivision (f) of Section 7103 of the Revenue and Taxation Code shall be continuously appropriated to the commission, notwithstanding Section 13340 of the Government Code, and without regard to fiscal year.

(b) The funds appropriated pursuant to subdivision (a) shall be allocated to public agencies to fund traffic signal synchronization and traffic signal preemption devices for both exclusive public mass transit guideway vehicles and emergency vehicles. Signal preemption devices shall receive high priority for funding.

(c) The commission shall adopt initial guidelines to fund this program within 180 days of the enactment of this section. The guidelines shall require that synchronization projects shall not have an adverse impact on the operation of public transportation systems.

(d) The Legislature may amend subdivisions (b) and (c) of this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, this section and the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 29. Section 197 is added to the Streets and Highways Code, to read:

197. (a) Funds transferred to the State Highway Account pursuant to subdivision (g) of Section 7103 of the Revenue and Taxation Code shall be continuously appropriated to the commission without regard to fiscal year, notwithstanding Section 13340 of the Government Code.

(b) The funds appropriated pursuant to subdivision (a) shall be allocated to public agencies and nonprofit corporations in regions of the state that have not attained state or federal air quality standards or that have significant traffic congestion, to provide ridesharing services, including computer matching of

carpool and vanpool rides and riders, and to develop and plan better public transit routes and systems.

(c) The commission shall adopt initial guidelines to fund this program within 180 days of the enactment of this section.

(d) The Legislature may amend subdivisions (b) and (c) of this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, this section and the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

SECTION 30. Section 199.12 is added to the Streets and Highways Code, to read:

199.12. The amount of funds available each fiscal year from the State Highway Account, pursuant to Section 199 of this code and Section 99317 of the Public Utilities Code, for the guideways component of the transit capital improvements program approved pursuant to Article XIX of the California Constitution shall be maintained at not less than historical levels, consistent with Section 199.11. "Historical levels" means an amount equal to the ratio of state funds in the State Highway Account actually appropriated to the guideway program by the State Budget Act of 1989 compared to the total amount of state funds appropriated from the State Highway Account by that budget act for all transportation capital outlay, multiplied by the total amount of state funds in the State Highway Account available for all transportation capital outlay in each future budget year. Notwithstanding Section 13340 of the Government Code, funds for these guideway purposes shall be continuously appropriated at historical levels to the committee, without regard to fiscal year, for allocation through the transit capital improvements program. Not less than 15 percent of guideway funds shall be allocated to intercity rail projects.

SECTION 31. Section 199.13 is added to the Streets and Highways Code, to read:

199.13. (a) Except as provided in subdivision (b), and otherwise required by the act defined in Section 99399 of the Public Utilities Code, no funds shall be permanently transferred from the State Highway Account to any other account, fund, or other depository. The intent of this section is to provide funds for transportation purposes consistent with Article XIX of the California Constitution. Except as provided in Sections 16310 and 16381 of the Government Code, loans from funds in the State Highway Account derived from motor vehicle fuel taxes to the General Fund consistent with Section 6 of Article XIX of the California Constitution shall be limited in duration to a term of two years and shall be repaid with interest from the General Fund at the Pooled Money Investment Account rate. No other loans of those funds shall be made.

(b) Funds may be transferred from the State Highway Account to the Transportation Planning and Development Account for support of the commission and the rail committee and to provide reimbursements for transportation planning activities and support of transportation research activities. Any reduction in transfers from one year to the next shall be accompanied by an equivalent reduction in the directly associated expenditures from the Transportation Planning and Development Account. Funds may also be transferred from the State Highway Account to the Environmental Enhancement and Mitigation Demonstration Program Fund, the Seismic Safety Retrofit Account, and other accounts and funds for purposes substantially similar to purposes for which the State Highway Account is authorized on and after the effective date of this section.

(c) All interest, fee income (except tolls), rental or lease income, or other income earned by the state from the funds in the State Highway Account, or from transportation facilities paid for in part or entirely by the State Highway Account, directly or indirectly, shall remain or be deposited in the State Highway Account. This subdivision shall not apply to income produced by property acquired and developed by local agencies or joint powers authorities pursuant to grants made by the state, or to income from property purchased pursuant to Section 164.56.

(d) Except as provided in subdivisions (a) and (b), if a statute transfers any funds from the State Highway Account to any other account, fund, or other depository, directly or indirectly, within ninety days of the effective date of the statute the Controller shall transfer an amount equivalent to the amount of that transfer from the General Fund to the State Highway Account. If a loan pursuant to subdivision (a) to the General Fund is not repaid with interest, the Controller shall transfer the necessary amount of funds to repay the loan with interest from the General Fund to the State Highway Account within six months of the end of the maximum two-year loan term. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision.

SECTION 32. Section 199.14 is added to the Streets and Highways Code, to read:

199.14. (a) Except as provided by Section 5 of Article XIX of the California Constitution, and Section 199.13, no funds in the State Highway Account shall be used for debt service for general obligation bonds issued for transportation purposes pursuant to Chapter 17 (commencing with Section 2701) of Division 3, or Chapter 19 (commencing with Section 2703) of Division 3, or bonds issued pursuant to Chapter 6 (commencing with Section 99690) of Part 11.5 of Division 10 of the Public Utilities Code, or for any future general obligation bonds that the state may authorize and issue.

(b) All loans that were made from the State Highway Account in order to pay transportation bond debt service pursuant to the relevant provisions of the Budget Act of 1992, the Budget Act of 1993, and any other budget acts shall be repaid, with interest at the pooled money investment rate applicable to the period during which the loans were outstanding, on or before June 1, 1997, with funds other than funds in the State Highway Account or other funds dedicated to transportation purposes. If these loans have not been repaid in full by that date, the Controller shall transfer 50 percent of the amount due, including interest, on June 30, 1997, from the General Fund to the State Highway Account, and shall transfer the remainder, including interest, from the General Fund to the State Highway

Account on or before June 1, 1998. There is hereby appropriated from the General Fund an amount necessary to make any transfer required by this subdivision. The loans that were made pursuant to the relevant provisions of the budget acts described in this subdivision shall be considered to be loans until repaid, notwithstanding any other provision of law.

SECTION 33. Section 894.5 is added to the Streets and Highways Code, to read:

894.5. (a) The Bicycle and Pedestrian Facilities Account is hereby created in the State Transportation Fund. Notwithstanding Section 13340 of the Government Code, the money in the Bicycle and Pedestrian Facilities Account is continuously appropriated to the department without regard to fiscal year for the purposes of this section. The commission shall establish a program to be administered by the department for allocating the funds in the Bicycle and Pedestrian Facilities Account made available by subdivision (d) of Section 7103 of the Revenue and Taxation Code. These funds shall be allocated by the commission to cities, counties, and other public agencies for bicycle, sidewalk, and rural walkway projects which primarily benefit nonmotorized facilities for bicycles and pedestrians, as provided in this section. Not less than three-quarters of the funds in the Bicycle and Pedestrian Facilities Account shall be allocated to bicycle projects. Of the remaining funds, rural walkway projects shall be given highest priority.

(b) A bicycle project shall be eligible for funding only if it primarily benefits bicycle commuters, rather than recreational users.

(c) A sidewalk project shall be eligible for funding only if it is in an existing urban area, with the highest priority given to projects which complete gaps in

existing sidewalks with significant pedestrian traffic. Repair of an existing sidewalk is not eligible for an allocation.

(d) A rural walkway project shall be eligible for funding only if it is along a road which is heavily used by pedestrians or bicycling children on a suggested route to school, or if the project is in support of public transit use and is within one-quarter mile of transit stops in rural areas.

(e) To the greatest extent practicable, the department shall use the same guidelines to administer this section that were adopted by the commission for the administration of bicycle funds made available by Section 99650 of the Public Utilities Code. The initial version of any required changes to those guidelines shall be adopted within 180 days of the enactment of this section.

(f) To the greatest extent practicable, the department shall use the same guidelines to administer this section that were adopted by the commission for the administration of rural walkway funds made available by Section 99628 of the Public Utilities Code.

(g) Annual funding for bicycle purposes pursuant to subdivision (b) of Section 2106 shall not be reduced below funding levels actually made available in fiscal year 1993-94.

(h) The Legislature may amend subdivisions (b) through (f) of this section, by statute passed in each house of the Legislature by rollcall vote entered in the journal, four-fifths of the membership concurring, if the statute is consistent with, and furthers the purposes of, the Clean Air, Jobs, and Transportation Efficiency Act of 1994.

## Proposition 186: Text of Proposed Law

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

This initiative measure expressly amends the Constitution by adding sections thereto, and repeals and adds sections to various codes; 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

#### CALIFORNIA HEALTH SECURITY ACT

SECTION 1. This initiative establishes a California health security system that will protect California consumers, taxpayers, and employers from the skyrocketing cost of health care. Savings will be achieved by limiting health care costs, eliminating waste, and emphasizing disease prevention. Under the time-tested single-payer system established by this act and administered by an elected Health Commissioner, the practice of medicine will remain private. Under the health security system, all Californians will have free choice of health care provider, regardless of employment, and access to comprehensive health care, including long-term care. The health security system will provide these services for the same or less money in real dollars than is spent on health care in California today.

SECTION 2. Division 13 (commencing with Section 25000) is added to the Welfare and Institutions Code, to read:

#### DIVISION 13. CALIFORNIA HEALTH SECURITY ACT

##### CHAPTER 1. FINDINGS AND INTENT

25000. This act shall be known and may be cited as the California Health Security Act.

25001. Findings and declarations.

The people of the State of California find and declare as follows:

(a) Californians have a right not to be financially ruined when they or their loved ones become sick or ill.

(b) California employers have a right not to be driven into insolvency by the spiraling cost of employee medical benefits.

(c) Californians have a right to high-quality health care.

(d) Californians should be guaranteed the freedom to choose their own doctor or other health care provider.

(e) Californians should not be at risk of losing their health benefits if they change or lose their jobs.

(f) California taxpayers are bearing enormous financial costs because many Californians do not have a regular health care provider. This lack of primary care leads to expensive overuse of emergency facilities resulting in exorbitant financial costs that are ultimately borne by the taxpayers.

(g) Because health care costs are rising faster than wages and prices, the number of uninsured and under-insured Californians is growing at an alarming rate. Over five million Californians presently have no health insurance. Children, low-income working and unemployed individuals, and individuals with disabilities and chronic conditions, in particular, are having a harder and harder time getting all types of medical care.

(h) In spite of the fact that employers and individuals spend huge amounts of money purchasing health insurance from insurance companies, the insurance they purchase often does not provide adequate medical care or real protection from financial ruin, especially if a loved one develops a catastrophic illness or needs long-term care.

(i) Enormous savings will be achieved in California upon institution of a single-payer for health care. Savings will be achieved by decreasing wasteful administrative overhead, bargaining for the best possible prescription drug prices, providing more cost-effective primary care, and by providing long-term care at home. The current health care system is so wasteful that the savings will be enough to fund universal coverage for all medical care services and extend benefits to

include long-term care, mental health care, and some dental services, and increase the resources available to prevent disease, all for the same amount of money currently spent on health care in California.

(j) The quality of health care can be improved in California upon institution of a single-payer for health care. Quality can be improved by changing those features of the health care system that underserve consumers and which subject some to the risks of unnecessary medical treatments.

(k) Since people always need health care services, prices for those services often do not respond to normal supply-and-demand market forces. As a result, health care costs much more than it should to provide for the health care needs of Californians. Any health care delivery system relying on price competition is unlikely to keep costs in check or provide universal health services to the population. Price control is therefore necessary to achieve cost containment and to make quality health care accessible to all.

(l) Because the best way to control health care costs in the long run is to prevent disease, funding for public health measures, and for research directed at the causes and prevention of disease, should be directly related to the overall cost of illness to society.

(m) Health care consumers need to participate in developing and reviewing public policies affecting the quality, accessibility, and accountability of health care service providers. Health care consumers therefore have the right voluntarily to join and support a democratically-controlled Health Care Consumer Council that will represent their interests before administrative, judicial, and legislative bodies, and that will have an efficient and honest system for funding.

(n) Safeguarding the quality and accountability of the health care system requires that there be a Health Commissioner who is elected by a direct vote of the people of California.

25002. Purpose and intent.

The people enact this act to accomplish the following purposes:

(a) To replace the current hodgepodge of government programs, private health insurance, and health care expenditures by individuals with a comprehensive and sensible health security system that will provide all medically appropriate care specific to individual needs, including preventive, mental health, and long-term care, as well as prescription drug coverage, and some dental care for all Californians.

(b) To control health care costs without compromising quality, primarily by eliminating wasteful overhead and excessive expenditures that do not contribute to the quality of health care.

(c) To finance the health security system in a manner that is fair, and spend no more money per individual in real dollars than is now being spent on health care in California.

(d) To provide incentives by which competition can improve quality and service in the health care system. When consumers have freedom of choice of health care providers, instead of a restricted choice of health plans based on what they can afford, providers have an incentive to provide the best quality care and service, in order to attract patients. When providers have freedom of mode of reimbursement, such as a choice of fee-for-service, capitation, or salary, under an overall budget, they can focus on taking the best possible care of their patients, without bureaucratic intrusion into the relationship between individual providers and their patients.

(e) To allocate health security system funds effectively in order to make the highest standards of care available for all Californians.

(f) To address the current and future health care needs of all Californians through emphasis on public health measures, changes in training and distribution of health care workers, and an intensive program of research into the causes of disease and the most effective means of preventing illness.

(g) To convert the current health care delivery system from one focused on emergency care to one focused on primary health care services and the promotion, restoration, and maintenance of health. These reforms will integrate all health care services and emphasize preventive services, early intervention, vigorous

rehabilitation, and restorative care in order to make health care a more vital part of individual and community life.

(h) To establish a governance structure for the health security system that is democratic and accountable while assuring the quality, reliability, efficiency, and effectiveness of the system.

(i) To ensure effective representation of the interests of the state's health care consumers before all administrative, judicial, and legislative bodies by establishing a Health Care Consumer Council funded only by voluntary contributions and grants and controlled by a democratically-elected board of directors.

(j) To provide initial benefits under the health security system as of January 1, of the second year following passage of the act, with full benefits provided no more than four years later.

(k) To have a neutral effect on the spending limit in Article XIII B of the California Constitution so that spending under this act neither increases nor decreases the amount of appropriations available for non-health-related spending by state and local government entities.

(l) To give the elected Health Commissioner the maximum authority permitted by law to determine budgeting needs and appropriations for the health security system.

(m) To achieve compliance with federal health care reform legislation and to obtain the maximum amount of federal revenues possible to fund the health security system.

#### 25003. Construction.

This act shall be liberally construed to accomplish its purposes.

### CHAPTER 2. DEFINITIONS

25004. The definitions contained in this section shall govern the construction of this division, unless the context requires otherwise.

(a) "Academic medical center" means a health facility associated with a degree-granting health professional training program and with major resource commitments to research.

(b) "Advisory board" means the Health Care Policy Advisory Board appointed by the commissioner to make expert recommendations on all aspects of health care policy.

(c) "Base year" means the 12 months prior to the passage of the act.

(d) "Base fiscal year" means the fiscal year of passage of the act.

(e) "Capitation" means allocation of health security system funds to a professional provider or integrated professional provider network based on the number of individuals whose health care must be covered, with respect to all benefits available under the health security system, for the calendar year, or part thereof, by that professional provider or professional provider network.

(f) "Clinic" means a facility licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code, subject to standards and criteria.

(g) "Clinical case manager" means a licensed professional provider who provides case management of an individual's health care. A case manager shall be a primary care professional provider, except in the case of individuals with particular chronic medical conditions requiring a specialist to be the case manager. An individual may select a specialist as a case manager if his or her primary health care needs are served within that specialty and the specialist is able and willing to provide individual case management.

(h) "Clinical case management" means a collaborative process that assesses, plans, implements, coordinates, monitors, and evaluates options and services to meet an individual's health care needs through communications and available resources to promote quality, cost-effective outcomes.

(i) "Commissioner" means the California State Health Commissioner, whose office is established by this act.

(j) "Complementary medicine" means those medical and health practices based upon empirical healing benefits and cultural traditions that do not rely on prevailing allopathic pharmaceuticals and techniques.

(k) "Consumer council" means the Health Care Consumer Council established by this act.

(l) "Effective date" means the day after passage of this act.

(m) "Elective care" means health care services that are not emergency care or urgent care, as determined by the commissioner based on recommendation of the advisory board.

(n) "Employee" means a resident of California who works for an employer, is listed on the employer's payroll records, and is under the employer's control.

(o) "Employer" means any person, partnership, corporation, association, joint venture, or public or private entity employing for wages, salary, or other compensation, one or more employees at any one time to work in this state. "Employer" does not include self-employed persons with respect to earnings from self-employment.

(p) "Emergency care" means health care services required for alleviation of severe pain or distress or for immediate diagnosis and treatment of unforeseen medical conditions which, if not immediately diagnosed and treated, could lead to disability or death, as defined in Section 16953 of the Welfare and Institutions Code.

(q) "Health facility" means a facility licensed pursuant to Chapter 2 (commencing with Section 1250) of, and Chapter 8 (commencing with Section 1725) of, Division 2 of the Health and Safety Code, subject to standards and criteria.

(r) "Health security system" means the program of comprehensive health services administered by the commissioner as set out in this act, and all policies and directives of the commissioner.

(s) "Medical care" means all health care items and services, except for items and services not reasonable and necessary for the diagnosis, treatment, or prevention of

illness or injury or to improve the functioning of a malformed or injured body member, according to guidelines established by the commissioner based on recommendation of the advisory board.

(t) "Medical indication" means the set of medical conditions for which there is evidence that a particular service improves the overall health outcome of patients receiving that service.

(u) "Medically appropriate" means all health care services and procedures chosen by the patient's health care professional provider subject to the guidelines established by the commissioner based on recommendation of the advisory board.

(v) "Mental health care" means health care services provided for the prevention, diagnosis, or treatment, of one or more mental disorders, including substance dependence and abuse and diseases of the brain.

(w) "Mode of reimbursement" means the way in which a professional provider is paid, including, but not necessarily limited to, any of the following:

(1) A fee for each service provided.

(2) Capitation.

(3) Salary.

(x) "Primary care" means comprehensive, longitudinal, individual clinical prevention and treatment services, provided by a professional provider acting within the scope of his or her practice, subject to standards and criteria.

(y) "Primary care provider" means a professional provider delivering primary care.

(z) "Professional provider" means an individual licensed to provide health care services pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, subject to standards and criteria.

(aa) "Provider" means a professional provider, health facility, or clinic, subject to standards and criteria.

(bb) "Regional administrator" means the individual appointed by the commissioner to coordinate health security system activities in a system region.

(cc) "Regional consumer advocate" means the individual appointed for each system region by the commissioner to serve as the ombudsperson and liaison between health care consumers and the health security system.

(dd) "Resident" means a resident of California as determined pursuant to Section 244 of the Government Code, or as otherwise defined by the Legislature.

(ee) "Secondary care" means both of the following:

(1) Outpatient health care services other than those that constitute primary care.

(2) Inpatient health care services other than those that constitute tertiary care.

(ff) "Specialist" means those professional providers who are specially board certified or eligible for certification, who currently provide specialized health care services in the State of California, or who provide specialized health care services and accept referrals from primary care providers, case managers, and other specialists, subject to standards and criteria.

(gg) "State gross domestic product" means the sum total of the value of all goods sold, and services provided, in the State of California for any given year as determined by the U.S. Department of Commerce.

(hh) "Standards and criteria" means standards and criteria as promulgated by the commissioner.

(ii) "System" means the health security system established by this act.

(jj) "System budget" means the amount of money projected to be spent in the state on health care in any given year under the health security system pursuant to Chapter 7 (commencing with Section 25150).

(kk) "System formulary" means the list of drugs that are covered for payment by the health security system when prescribed by a professional provider acting within the scope of his or her practice according to standards and criteria.

(ll) "System region" means a region of the state composed of geographically contiguous counties grouped on the basis of common economic or demographic characteristics, for administrative and other purposes of the health security system.

(mm) "Tertiary care" means the specialized diagnostic and treatment services for which regional referral centers have been designated by the commissioner.

### CHAPTER 3. ELIGIBILITY

25006. (a) All Californians who meet residency requirements defined by the Legislature and certified by the commissioner are eligible for covered benefits specified in Chapter 4 (commencing with Section 25010), other than long-term care benefits as provided in Article 4 (commencing with Section 25025) of Chapter 4.

(b) A California resident eligible for benefits under subdivision (a) is further eligible for long-term care benefits as provided in Article 4 (commencing with Section 25025) of Chapter 4 upon showing any of the following:

(1) That he or she has been employed full time for not less than 24 months, or a correspondingly greater number of months of part-time employment, by an employer who, for the entire time, met either of the following requirements:

(A) Made payments into the Health Security Fund pursuant to Section 25115, less any credit allowed under Section 33003 of the Revenue and Taxation Code.

(B) Was exempt from making payments pursuant to Section 25136.

(2) That he or she has, for a period of two years, made individual payments by way of taxes or otherwise into the Health Security Fund pursuant to Section 25120, less any credit allowed under subdivision (b) of Section 33003 of the Revenue and Taxation Code.

(3) That he or she was, for the period specified, a dependent member of the household of a person qualifying under paragraph (1) or (2).

(4) That he or she is entitled under federal law to those benefits.

(c) Until such time as the Legislature establishes residency requirements for purposes of this act, residency shall be determined according to Section 244 of the Government Code.

(d) Any individual who is not eligible for long-term care under subdivision (b) shall be eligible for care to the same extent and under the same conditions as he or

she would have been eligible under programs existing prior to the effective date of this act, including, but not limited to, the Medical Assistance Program (Medi-Cal) and the California Children's Services program.

#### 25007. Eligibility cards.

(a) The regional administrator for each system region shall certify the eligibility of each individual within the region, pursuant to Section 25006, and shall provide each eligible individual with a card with an identifying number listing any limitations of the services for which the individual is eligible. The card shall be in the form and manner as determined by the commissioner, or as required by federal law.

(b) (1) In the case of minors under the age of 18, the regional administrator shall issue the card to a person having legal custody of the minor. More than one minor may be listed on a single card.

(2) Any eligible minor who is legally capable of giving consent to health care may apply to the regional administrator for a separate card. The card shall be limited to the types of care for which the minor may lawfully consent.

(c) (1) Within 30 days of receipt of a completed application, the regional administrator shall issue an eligibility card, or provide a written explanation for its denial or any restrictions placed thereon.

(2) If good cause exists to believe that the applicant may not meet the eligibility requirements of Section 25006, the regional administrator may extend the period under paragraph (1) up to an additional 30 days to permit further investigation.

(3) Where necessary to avoid an interruption in care, the regional administrator may issue a temporary eligibility card.

#### 25008. Presumptive eligibility.

(a) If a patient arrives at a health facility or clinic who is unconscious, comatose, or otherwise unable because of his or her physical or mental condition to document eligibility or to act in his or her own behalf, or if the patient is a minor, the patient shall be presumed to be eligible and the health facility or clinic shall provide care as if the patient were eligible.

(b) Any individual involuntarily committed to an acute psychiatric facility or to a hospital with psychiatric beds pursuant to any provision of Section 5150 of the Welfare and Institutions Code providing for involuntary commitment, shall be presumed eligible.

25009. Nothing in the California Health Security Act shall relieve the counties of their obligation under Part 5 (commencing with Section 17000) of Division 9.

### CHAPTER 4. BENEFITS

#### Article 1. General

25010. (a) Any eligible individual may choose to receive services under this division from any willing professional provider participating in the health security system.

(b) No eligible individual shall be required to meet a deductible or copayment as a condition for receiving health care services by any health facility or clinic or professional provider reimbursed by the health security system except as follows:

(1) As authorized by the commissioner under provisions for implementing phase-in of the health security system, as provided in Chapter 10 (commencing with Section 25300).

(2) For outpatient prescription drugs as specified in Article 3 (commencing with Section 25020).

(3) For room and board charges as specified in Article 4 (commencing with Section 25025) and Article 5 (commencing with Section 25030).

(4) For cost control purposes as specified in Article 8 (commencing with Section 25225) of Chapter 7.

#### Article 2. Medical Benefits

25015. Covered benefits in this chapter shall include all medical care determined to be medically appropriate by the patient's health care provider, except as excluded under Section 25045, including, but not limited to, all of the following:

(a) Inpatient and outpatient health facility or clinic services other than long-term care services as defined in subdivision (a) of Section 25025.

(b) Inpatient and outpatient professional provider services, including eye care and home health care.

(c) Diagnostic imaging, laboratory services, and other diagnostic and evaluative services.

(d) Prenatal, perinatal, and maternity care.

(e) Durable medical equipment and appliances including prosthetics, eyeglasses, and hearing aids, as determined by the commissioner.

(f) Podiatry.

(g) Chiropractic.

(h) Dialysis.

(i) Emergency transportation and necessary transportation for health care services for the disabled, as determined by the commissioner.

(j) Rehabilitative care.

(k) Language interpretation for health care services, including sign language, for those unable to speak, hear, or understand English, and for the hearing impaired.

(l) Blood.

25016. Covered benefits in this chapter shall include outreach, education, and screening services, including, but not limited to:

(a) Children's preventive care, well-child care, immunizations, screening, outreach, and education.

(b) Adult preventive care including mammograms, Pap smears and other screening, outreach, and educational services.

#### Article 3. Prescription Drugs

25020. (a) Covered benefits in this chapter shall include pharmacological products of proven pharmaceutical effectiveness pursuant to a system formulary

composed of the best-priced prescription drugs of proven efficacy for particular conditions as set out in Section 25216. In establishing the formulary, and achieving the lowest possible prices for formulary drugs, the commissioner shall not be considered to be the dispenser or distributor of formulary drugs.

(b) Only those prescription drugs on the system formulary shall be reimbursed under the health security system, except where special standards and criteria are met.

(c) The health security system shall cover the full cost of all drugs provided during hospitalizations and during emergency care.

(d) Except as otherwise provided in this subdivision, a copayment of not more than five dollars (\$5) per prescription shall be charged for outpatient prescription drugs.

(1) Standards and criteria for application of, adjustment of, and a ceiling on, outpatient prescription drug copayments shall be established.

(2) A list of drugs available without copayments, including, but not limited to, antineoplastic agents, drugs to combat infectious diseases including tuberculosis, blood derivatives and immune serum globulins, vaccines, and sera, shall be established and may be modified at the discretion of the commissioner.

(3) A mechanism for waiving the prescription drug copayment requirement in the case of individuals whose financial resources are insufficient to meet any copayment shall be established by the commissioner.

(e) A mechanism for daily drug dispensing for those individuals who are eligible for drugs without copayment pursuant to paragraphs (2) and (3) of subdivision (d), but who are deemed unable to manage their own drugs on the basis of repeated loss of prescribed drugs provided without copayment, shall be established according to standards and criteria.

#### Article 4. Long-Term Services

25025. (a) Long-term services necessary for the physical health, mental health, social, and personal needs of individuals with limited self-care capabilities are covered benefits under this division as provided in this section.

(b) Long-term services shall include all of the following:

(1) Institutional and residential care including Alzheimer's disease units.

(2) Home health care.

(3) Hospice care.

(4) Home- and community-based services, including personal assistance and attendant care.

(5) Appropriate access to specialty consultation within long-term care settings.

(6) Reassessment of an individual's need for long-term services, conducted at appropriate intervals, but not less than once a year.

(c) Individual needs for long-term care shall be determined through a standardized assessment of the individual's abilities for self-care and need for a particular level of care. This assessment shall occur at the time of discharge planning, if applicable, and otherwise shall occur before provision of long-term care services under this section, and shall include all of the following, unless otherwise specified by the commissioner:

(1) Medical examinations necessary to determine what level of medical care is required.

(2) Environmental and psychosocial evaluations to determine what the individual can and cannot do for himself or herself physically, as well as mentally.

(3) Services, service coordination, or case management, to ensure that necessary services are provided to enable the individual to remain safely in the least restrictive setting.

(4) Early intervention services and individualized family services for the developmentally disabled pursuant to Part H of the Individuals with Disabilities Education Act (20 U.S.C. 1471, et seq.) and Title 14 (commencing with Section 95000) of the Government Code.

(d) Services may be provided in the individual's home, or through community-based, residential, or institutional programs, pursuant to standards and criteria.

(e) In providing long-term services under this section, the commissioner shall encourage and reimburse noninstitutional long-term services where appropriate, as determined pursuant to the assessment and reassessment process. At the discretion of the commissioner, up to 100 percent of the cost to the health security system of institutional care may be expended in order to allow persons needing long-term services to remain safely in their homes to the maximum extent possible.

(f) The health security system shall not cover that portion of long-term care expenses incurred for room and board, unless an individual has no resources for payment as determined by the commissioner. Persons with low income and assets shall be charged for basic room and board at a reduced rate corresponding to a percentage of Social Security or other income, as determined by the commissioner. Additional amenities for room and board may be purchased at individual expense.

#### Article 5. Mental Health Care Benefits

25030. (a) Mental health care services that are medically appropriate, including, but not limited to, treatment for substance abuse and treatment for diseases of the brain, are covered benefits under this division.

(b) Covered mental health care benefits in this chapter shall include, but not be limited to, the following, when determined to be medically appropriate by the commissioner:

(1) Crisis intervention, including assessment, diagnosis, brief emergency treatment, and referral.

(2) Outpatient services, including, but not limited to, adult day care, detoxification services, home health care, psychosocial rehabilitation, and professionally sponsored and professionally supervised self-help and peer-support programs which are approved by the commissioner.

(3) Intermediate-level care, including, but not limited to, intensive day and evening programs and institutional and residential services. The health security

system shall not cover that portion of intermediate-level care expenses incurred for room and board in excess of one meal per day, unless an individual has no resources for payment. Persons with low income and assets shall be charged for basic room and board at a reduced rate, as determined by the commissioner. The reduced rate charged to individuals with low income for room and board shall be a percentage of Social Security or other income, to be determined by the commissioner. Additional amenities for room and board may be purchased at individual expense.

(4) Inpatient health facility services as approved by the commissioner based on the recommendations of the advisory board.

(5) Professional provider services at outpatient, intermediate, and inpatient levels of care, including, but not limited to, individual, family, and group psychotherapy, medical management, psychological testing, and mental health case management and coordination of care.

(6) Diagnostic imaging, laboratory services, and other diagnostic and evaluative services, as provided in Article 2 (commencing with Section 25015).

(7) Prescription drugs, as provided in Article 4 (commencing with Section 25020).

(c) Services under paragraph (3) of subdivision (b) may be integrated with long-term care services described under Article 4 (commencing with Section 25025) at the discretion of the commissioner.

(d) During the first year that benefits are available under the health security system, a patient copayment may apply to certain outpatient mental health care services, as provided in Article 3 (commencing with Section 25305) of Chapter 10.

#### Article 6. Dental Benefits

25035. Dental services are a covered benefit under this chapter as specified by the commissioner. To the extent funding permits, dental benefits shall include the following, in the priority listed:

(1) Emergency dental services.

(2) Dental care for individuals, to the same extent and under the same conditions as they would have been eligible for under programs existing prior to the effective date of this act, including, but not limited to, Medi-Cal.

(3) Preventive dental services and noncosmetic orthodontia for individuals under the age of 18.

(4) Preventive dental services for individuals over the age of 18 and restorative care.

#### Article 7. Expansion of Covered Benefits

25040. (a) The commissioner may expand benefits beyond the minimum benefits described in this chapter when expansion meets the intent of this division and there are sufficient funds to cover the expansion.

(b) Coverage for any service or benefit not previously covered by the health security system may be instituted without expansion of benefits, provided that the commissioner determines it is of equivalent therapeutic value or is a less costly treatment alternative to a listed service, and if the service or benefit is provided by a professional provider acting within the scope of his or her practice, according to standards and criteria.

#### Article 8. Excluded Benefits

25045. (a) Services determined to have no medical indication by the advisory board shall be excluded from coverage under the health security system.

(b) Elective services may be restricted or excluded from coverage under the cost containment provisions of Section 25240.

#### Article 9. Coverage for Californians While Out-of-State

25055. (a) The health security system shall cover all eligible California residents traveling out-of-state for up to 90 days in each 12-month period.

(1) Coverage for emergency care shall be at prevailing local rates.

(2) Coverage for non-emergency care shall be according to rates and conditions established by the commissioner. The commissioner may require transport back to California for further treatment when the patient is medically stable.

(b) The commissioner may make arrangements for reciprocal coverage with other states or countries, provided that the programs provided by the other states or countries are comparable to those available in California in coverage, cost, and quality.

#### Article 10. Emergency Benefits

25059. (a) Emergency care and health care services necessary to safeguard the health of the population shall be readily available through the health security system to all individuals.

(b) The commissioner shall provide funding to public fire agencies for delivery of emergency medical services and emergency transportation.

### CHAPTER 5. GOVERNANCE AND ADMINISTRATION

#### Article 1. California State Health Commissioner

25060. (a) There is a California State Health Commissioner. The Office of the State Health Commissioner is an agency of the State of California.

(b) The commissioner shall administer the California Health Security System.

(c) The first commissioner shall be appointed by the Governor not less than 75 nor more than 100 days following passage of this act, and shall be confirmed by the Legislature within 30 days of nomination.

(d) The commissioner shall stand for election at the same time and in the same manner as the Governor.

(e) At any time that the commissioner is unable to perform the duties of the office, the deputy health commissioner may perform those duties for a period of up to 90 days.

(f) The commissioner may be impeached for malfeasance of office.

(g) In the event of vacancy, or inability of the commissioner to perform the duties

of office for a period of more than 90 days, an acting commissioner shall be appointed by the Governor and confirmed by the Legislature, for the balance of the commissioner's term.

(h) Compensation and benefits of the commissioner shall be determined pursuant to Section 8 of Article III of the California Constitution.

(i) The commissioner shall appoint a deputy health commissioner.

(j) Neither the commissioner nor the deputy health commissioner, nor either's spouse or children, shall be an employee, director, or stockholder of any company researching, developing, or marketing products or services that would have a financial interest in the outcome of deliberations in which that member would participate as a result of their appointment, during the time of appointment and for a period of three years after completion of the appointment.

#### Article 2. Health Commissioner Powers and Duties

25063. The commissioner's powers include any and all powers necessary and proper to implement this act, and to promote its underlying aims and purposes. These broad powers include, but are not limited to, the power to set rates and promulgate generally binding regulations on any and all matters relating to the implementation of this act and its purposes.

25065. The commissioner shall do all of the following:

(a) Establish and maintain a system of universal access to medical care for all Californians, as required by this division, including:

(1) Implement statutory eligibility standards.

(2) Adopt annually a benefits package for consumers which meets or exceeds the minimums required by law.

(3) Act directly, or through one or more contractors, as the single payer for all claims for services provided under this chapter.

(4) Develop and implement separate formulae for determining budgets pursuant to Article 3 (commencing with Section 25155) of Chapter 7.

(5) Review the formulae described in paragraph (4) annually for appropriateness and sufficiency of rates, fees, and prices.

(6) Provide for timely payments to professional providers and health facilities and clinics through a structure that is efficient to administer and that eliminates unnecessary administrative costs. The cost of administration of the health security system shall not exceed the limits set in Article 3 (commencing with Section 25155) of Chapter 7.

(7) Implement, to the extent permitted by federal law, standardized claims and reporting methods.

(8) Establish an enrollment system that will ensure that all eligible Californians, including those who travel frequently, those who cannot read, and those who do not speak English, are aware of their right to health care, and are formally enrolled.

(9) Determine the number and precise county-by-county composition of the system regions, based on criteria of common economic and demographic features and geographic contiguity.

(10) Bid for prescription drug contracts in order to achieve the lowest possible cost for drugs available under the system formulary.

(11) Negotiate for, or set, rates, fees, and prices involving any aspect of the health security system, and establish procedures relating thereto.

(b) (1) Administer the revenues of the health security system in accordance with Chapter 6 (commencing with Section 25100).

(2) Procure funds including loans, lease or purchase property, obtain appropriate liability and other forms of insurance for the health security system, its employees, and agents.

(c) Establish, appoint, and fund, as part of the administration of the health security system, the following:

(1) A Health Care Policy Advisory Board pursuant to Section 25068.

(2) A regional administrator with appropriate staff for each system region pursuant to Section 25074.

(3) A regional consumer advocate with appropriate staff for each system region pursuant to Section 25075.

(d) Administer all aspects of the health security system that include, but are not limited to, all of the following:

(1) Establish standards and criteria for allocation of operating funds and funds from named accounts as described in Section 25250 to system regions.

(2) Meet regularly with the regional administrators and regional consumer advocates to review the impact of the health security system and its policies on the system regions.

(3) Budget the Public Health and Prevention Account, Innovations Account, Capital Improvements Account, Health Worker Training Account, and Reserve Account for each system region in a manner determined by the commissioner to most equitably meet the health care needs of the population of the state as a whole and the population within each region pursuant to the specific purposes for which those accounts have been established as described in Article 9 (commencing with Section 25250) of Chapter 7.

(4) Achieve the best pharmaceutical drug prices for the health security system pursuant to Section 25216.

(e) Gather and analyze data necessary for the efficient and equitable functioning of the health security system pursuant to Section 25095.

(f) In addition to all other powers conferred under this division, the commissioner may:

(1) Employ appropriate staff as necessary to implement this division.

(2) Delegate to appointed staff any aspect of the health security system that is the responsibility of the commissioner. Individuals employed by the commissioner or by any department or state agency that is made a part of the health security system shall perform their duties as the commissioner assigns them.

(3) Employ and direct attorneys on staff or as outside counsel in the defense or implementation of any provision of this act.



(4) Sue and be sued to enforce any provision of this act.  
(5) Seek, at his or her discretion, legal advice or counsel from the Attorney General.  
(6) Incur traveling expenses as are necessary for the performance of his or her duties.

(7) Issue subpoenas, administer oaths, and examine under oath any person as to any matter pertinent to the administration of the health security system.

(g) Promulgate procedures and standards for competitive bidding which shall govern the contracts authorized by this section. Notwithstanding any other provision of law, the contracts shall be subject to the competitive bidding requirements so promulgated, and no others.

(h) Assure all existing statutes regarding confidentiality of medical records shall continue to apply to the health security system. No policy, directive, or study by the commissioner may be taken that compromises confidentiality of medical records as established by law.

25066. Nothing contained in this act shall prevent the Legislature from transferring to the health security system programs for health care, including mental health care for patients in state hospitals and other health care facilities owned by the state, and facilities located in state prisons.

25067. (a) The commissioner shall not set any rate, fee, or price, that is confiscatory.

(b) Any provider, vendor, or other person aggrieved by a rate, fee, or price set by the commissioner, upon the production of credible evidence that the rate, fee, or price is confiscatory, shall be entitled to a timely hearing.

(c) This section shall not apply to any rate, fee, or price that is negotiated with the commissioner.

### Article 3. Health Care Policy Advisory Board

25068. (a) The commissioner shall establish and appoint a Health Care Policy Advisory Board consisting of health care and public health professionals and other experts, including the Director of Health Services.

(b) Members of the advisory board, other than the Director of Health Services, and any committee or task force established by the commissioner, shall be subject to all of the following:

(1) Shall serve for a period determined by the commissioner and shall be exempt from civil service pursuant to subdivision (d) of Section 4 of Article VII of the California Constitution.

(2) Shall receive a salary and other compensation as determined by the commissioner.

(3) Shall not be an employee, director, or stockholder of any for-profit company researching, developing, marketing, or providing health care products or services during the time of appointment and for a period of three years after completion of service on the advisory board, task force, or committee. No individual shall be appointed to the advisory board, task force, or committee whose spouse or child is an employee, director, or stockholder of any for-profit company researching, developing, marketing, or providing health care products or services.

(c) The Director of Health Services shall be a member of the advisory board and shall serve without additional compensation.

25070. The advisory board shall do all of the following:

(a) Make policy recommendations on medical issues, population-based public health issues, research priorities, scope of services, expanding access to care, and health security system evaluation.

(b) Review proposals for innovative approaches to health promotion, disease and injury prevention, education, research, and health care delivery.

(c) Be consulted by the commissioner regarding any matter involving practice or quality under the health security system.

(d) Recommend expert task forces, including an expert formulary committee, to be appointed by the commissioner to study and make recommendations on specialized areas of medical policy and effectiveness.

(e) Identify medical services for which there is no credible evidence of significant benefit.

(f) Establish standards and criteria by which requests by health facilities for capital improvements shall be evaluated.

25071. The responsibilities of the formulary committee shall include, but need not be limited to, all of the following:

(a) Prepare, and update as required, a formulary that shall contain drugs covered under the health security system.

(b) Make recommendations to the commissioner as to which drugs are of proven efficacy for particular conditions.

(c) Identify those prescription drugs that are of comparable efficacy or that lack distinguishing features that would justify their independent inclusion in a health security system formulary.

25073. The commissioner shall establish a mechanism to allow the consumer council and any organization or advocacy groups with special health-care-related interests, including those representing complementary medicine, to provide input to the advisory board on a regular basis.

### Article 4. Regional Administration

25074. (a) There shall be a regional administrator in each system region whose duties shall include, but are not limited to, negotiating service contracts, preparing budgets, approving and funding of capital expense projects of health facilities and clinics in the region, following guidelines and formulae determined by the commissioner.

(b) Each regional administrator shall be exempt from civil service pursuant to subdivision (d) of Section 4 of Article VII of the California Constitution.

(c) The regional administrator shall not be an employee, director, or stockholder of any for-profit company researching, developing, marketing, or providing health care products or services during the time of appointment and for a period of three

years after completion of service. No individual shall be appointed as regional administrator whose spouse or child is an employee, director, or stockholder of any for-profit company researching, developing, marketing, or providing health care products or services.

### 25075. Regional Consumer Advocates.

(a) There shall be a regional consumer advocate in each system region, appointed by the commissioner.

(b) The regional consumer advocate shall monitor the effectiveness of the health security system within a system region including, but not limited to, examining all of the following:

(1) Complaints and suggestions from the public.

(2) Proposals to be considered by the commissioner in the future.

(3) The commissioner's plans for changes in resource allocation.

(4) The extent to which individual health facilities and clinics in a system region meet the needs of the community in which they are located.

(5) Any other factor bearing on the effectiveness of the health security system.

(c) The regional consumer advocate shall receive, investigate, and respond to complaints from any source about any aspect of the health security system, referring the results of investigations to the appropriate professional provider or facility licensing boards or law enforcement agencies, as appropriate.

(d) The regional consumer advocate shall publish an annual report to the public containing an evaluation of the health security system in that system region, including, but not limited to, the items described in subdivision (b).

(e) The regional consumer advocate shall hold public hearings no less than yearly on, but not limited to, the items listed in subdivision (b).

(f) In the pursuit of his or her duties, the regional consumer advocate shall have unlimited access to all non-confidential and non-privileged documents in the custody and control of the commissioner, regional administrator, and health security system staff.

(g) The regional consumer advocate shall not be an employee, director, or stockholder of any for-profit company researching, developing, marketing, or providing health care products or services during the time of appointment and for a period of three years after completion of service. No individual shall be appointed as regional consumer advocate whose spouse or child is an employee, director, or stockholder of any for-profit company researching, developing, marketing, or providing health care products or services.

### Article 5. Health Care Consumer Council

25080. (a) There is established a Health Care Consumer Council as an agency to do all of the following:

(1) Advise the commissioner on behalf of health care consumers of the state regarding policies and practices in the provision and delivery of health care services and supplemental health insurance.

(2) Educate health care consumers about preparation and submission of claims or disputes to the commissioner or any other entity in regard to provision and delivery of health care services and supplemental health insurance.

(3) Represent and promote the interests of health care consumers as a class before the commissioner, or any administrative or judicial body, and initiate, maintain, intervene, or participate in any proceeding related to health care or supplemental health insurance which affects the interests of health care consumers, except that the consumer council shall not represent any person in any action for compensation for injury or damages arising from any provision of health care services or supplemental health insurance.

(4) Appear before local, state, and federal legislative or policymaking bodies to advocate and lobby on behalf of the interests of health care consumers.

(5) Conduct and support research, surveys, conferences, and public information activities concerning health care and supplemental health insurance matters.

(6) Develop proposals to improve the delivery and quality of health care services.

(7) Perform all acts necessary or expedient for the administration of its affairs and the attainment of its purposes.

(b) The membership of the consumer council shall consist of all individual health care consumers 16 years of age or older residing in the state who have contributed to the consumer council the appropriate annual membership fee. The Board of Directors of the Health Care Consumer Council shall establish an annual membership fee of not less than ten dollars (\$10), to be adjusted every three years for inflation, and provide for reduced fee membership for low-income individuals.

(c) Within 90 days of the effective date of this act, the Governor shall appoint five individuals to the interim board of directors, and the Rules Committee of the Senate and the Speaker of the Assembly shall each appoint 10 individuals to the interim board of directors.

(d) The interim board of directors shall, prior to the date benefits are first provided under this act, organize the consumer council; inform health care consumers of and solicit their membership in the consumer council; elect officers; employ such staff as are necessary; solicit funds; determine the consumer council electoral districts, each of which shall consist of two state senatorial districts; establish procedures for democratic election of 20 members of the board of directors; oversee the election campaign, tally the votes, and install the elected and appointed directors; and carry out all other duties and exercise all other powers necessary to establish the first elected board, including establishing procedures for the first election of the board of directors regarding conflicts of interest, contribution limitations, nomination procedures, requirements of candidates to submit statements of financial interest, background, and positions, and regarding reimbursement of actual, reasonable expenses of interim directors. The agency shall not participate in any representation of health care consumers before any administrative, judicial, or legislative body before the first elected board of directors is installed.

(e) The Board of Directors of the Health Care Consumer Council shall consist of 25 members, of which, one shall be appointed by the Governor, two shall be

appointed by the Rules Committee of the Senate and two shall be appointed by the Speaker of the Assembly, subject to the requirements of subdivisions (b) and (f) of this article regarding qualifications for directors. The remaining 20 shall be elected by the membership. The term for all appointed directors shall be two years. Each elected director shall represent a consumer council electoral district. One-third of the directors first elected shall serve for a one-year term, one-third of such directors shall serve for a two-year term, and one-third of such directors shall serve a full three-year term. The directors shall draw lots upon their installation to determine the length of their terms. Once each year, the board shall elect its officers. All directors shall serve without compensation, but may be reimbursed for actual, reasonable expenses incurred by them in the performance of their duties.

(f) No present employee, director, consultant, attorney, or accountant of any private health insurance provider, the commissioner, any health care provider, or spouse or child of any such individual, shall be eligible to be appointed or elected to either the interim or subsequent boards of directors, and no candidate for that office may accept any campaign contributions or gifts, either monetary or in kind, from any person. No elected member of the board of directors shall serve more than two consecutive terms and no appointed member shall serve more than one term. No board of directors member or candidate may hold any other elective public office or be a candidate for elective public office or be appointed to hold state or local office.

(g) Not more than 60 days after the membership of the consumer council reaches 25,000 persons with at least one hundred members in each consumer council district, the interim board of directors shall set a date for the first general election of directors and shall so notify every member. The date set for elections shall be not less than four months nor more than eight months after such notification. The date of subsequent elections shall be fixed by the board of directors at least four months in advance of the date chosen for the election.

(h) The board of directors shall have the following duties:

(1) To prescribe rules for the conduct of elections and election campaigns for the board of directors not inconsistent with this act.

(2) To establish policies and procedures regarding conflicts of interest; campaign contribution limitations; nomination of candidates for directors; requirements of candidates to submit statements of financial interest, background, and position; and regarding reimbursement of actual, reasonable expenses of directors.

(3) To establish the policies of the consumer council regarding appearances before the commissioner, administrative, judicial, and legislative bodies, and regarding other activities which the consumer council has the authority to perform under this act.

(4) To maintain up-to-date membership rolls.

(5) To keep minutes, books, and records which shall reflect all the acts and transactions of the board of directors which shall be open to examination by any member during regular business hours.

(6) To maintain and make all reports and studies compiled by the consumer council pursuant to this article available for public inspection during regular business hours.

(7) To maintain for inspection by the membership quarterly statements of the financial and substantive operations of the consumer council.

(8) To cause the consumer council's books to be audited by an independent certified public accountant at least once each fiscal year, and to make the audit available to the general public.

(9) To prepare, as soon as practicable after the close of the consumer council's fiscal year, an annual report of the consumer council's financial and substantive operations to be made available for public inspection.

(10) To conduct an annual membership meeting and therein report to the membership on the past and projected activities and policies of the consumer council. In addition, the consumer council shall sponsor on behalf of each director at least one meeting per year in each consumer council electoral district.

(11) To employ an executive director and staff.

(12) To hold regular meetings, including meetings by telephone conference, at least once every four months on dates and at places as it may determine. Special meetings may be called by the president of the board or by at least one-quarter of the directors upon at least five days' notice. One-half of the directors plus one shall constitute a quorum. All meetings of the board of directors shall be open to the public. Complete minutes of the meetings shall be kept.

(13) To carry out all other duties and responsibilities imposed upon the consumer council and its board of directors and to exercise all powers necessary to accomplish the purposes of this article.

(i) The executive director hired by the board of directors shall be subject to the conflict of interest provisions in subdivision (f) of this section. The executive director may not be a candidate for the board of directors while serving as executive director. All candidates for executive director shall submit a statement of financial interest as defined by the board and the executive director shall be required to file the statement annually. The executive director shall be exempt from civil service and shall serve at the pleasure of the board of directors.

(j) The consumer council shall be funded by voluntary donations from its members and through other grants or donations, including intervenor compensation funds for which it might be eligible, except that no gift, loan, or other aid shall be accepted from any insurance company, health care industry company or member, director, employee or agent thereof.

(k) A "Health Consumer Representation Fund," ("fund") shall hereby be created and shall be maintained as a trust fund by the Treasurer under Section 16429.1 of the Government Code. Membership fees and all other moneys received by the consumer council shall be deposited in the fund. Moneys in the fund shall be solely and continuously appropriated for expenditure by the board of directors to cover all actual and necessary expenses incurred in carrying out the provisions of this section. The Legislature shall have no right of appropriation of moneys in the fund.

(l) The consumer council shall prepare and furnish any state agency an enclosure soliciting voluntary membership contributions which shall be included, upon the request of the consumer council, in any mailing by that agency to at least 1,000 individuals.

(m) The consumer council shall do both of the following:

(1) Upon furnishing any state agency the enclosure permitted by this article, certify that the enclosure is neither false nor misleading. Upon request by the commissioner or any state agency the commissioner shall review the enclosure within 30 days, and may disapprove the enclosure if it is false or misleading.

(2) Reimburse the Health Security Fund or state agency for all reasonable incremental costs incurred as a result of compliance with this subdivision above the total postage and handling costs that otherwise would have been incurred without the enclosure, provided that an itemized accounting of the additional costs shall be provided first.

(n) The consumer council shall not sponsor, endorse, or otherwise support or oppose any political party or the candidacy of any individual for elective office.

(o) The consumer council may employ and direct attorneys on staff or as outside counsel in the defense or implementation of any of its powers. The consumer council may sue and be sued.

(p) Nothing in this article shall be construed to limit the right of any individual or group or class of individuals to initiate, intervene in, or otherwise participate in any proceeding before any administrative, judicial, or legislative bodies; nor to require any petition or notification to the consumer council as a condition precedent to such right; nor to relieve any agency, court, or other public body of any obligation, or affect its discretion to permit intervention or participation by a consumer or group of consumers in any proceeding or activity; nor to limit the right of any individual or individuals to obtain administrative or judicial review.

#### Article 6. Public Hearings

25090. The commissioner, regional consumer advocates, and consumer council shall jointly sponsor public hearings, no less than yearly in each system region, at which testimony shall be taken regarding all of the following:

(a) The commissioner's proposals for resource allocation, revenue generation, and other substantive policy changes for the coming year.

(b) The responsiveness of health facilities and clinics in a region to the health care needs of the local communities and populations they serve.

#### Article 7. Monitoring and Data Gathering

25095. (a) The commissioner shall guarantee that the data gathering and analysis necessary for the functioning of the health security system, including, but not limited to, review of access to care, quality, efficiency, and appropriateness of care and services, professional provider participation, population-based health outcomes, and geographic distribution of health care resources, are carried out.

(b) The commissioner, in consultation with the advisory board, shall establish a standard set of indicators and methods to be used to assess the effectiveness of the health security system in implementing and fulfilling the intents and purposes of this act. This should include, but is not limited to, the current federal Center for Disease Control and Prevention's consensus list of population health outcome indicators, indicators of child health, maternal health, safety and cost of births, promptness and appropriateness of treatment for cancer and other diseases, surgical survival and success rates for common procedures, functional status in the elderly, communicable disease rates, monitoring of out-of-pocket expenditures, availability of services including geographic proximity and waiting times, the number and types of staff employed by professional providers, and the number of each category of professional provider giving hands-on care.

(c) As a condition of reimbursement, professional providers and health facilities and clinics shall be required to report to the commissioner a certain amount of clinical data to be used to assist in the health security system's health outcome monitoring effort and for the purposes of improving the effectiveness of practice by professional providers and health facilities and clinics.

(d) Clinical data provided by individual professional providers shall be confidential and used only for statistical and system-wide purposes, and for improving the quality of care.

(e) The commissioner shall make the nonconfidential data and analysis generated pursuant to this section available to the consumer council, state and local health departments, and the public in a timely manner.

(f) The commissioner shall establish uniform fiscal and medical reporting requirements for all health care professional providers. Health facilities and clinics and professional providers, including those in integrated delivery systems, shall provide information to the commissioner about financial relationships with other health facilities, clinics, and professional providers. The information shall be available for public disclosure in order to assure that health facilities, clinics, and professional providers do not collude to increase prices or evade cost controls.

(g) The commissioner shall make available to the consumer council all available information regarding administration and any other aspects of the health security system that they might request for the purpose of compiling reports and recommendations and other activities.

(h) None of the data disclosure activities of the health security system shall infringe on the confidentiality of health security system information on individuals and their medical records.

#### CHAPTER 6. FUNDING

##### Article 1. Funding of the Health Security System

25100. There is established a special fund in the State Treasury, to be called the Health Security Fund, for the purpose of implementing this act.

25101. (a) All moneys collected, received, and transferred pursuant to this act shall be transmitted to the State Treasury to be deposited to the credit of the Health Security Fund for the purpose of financing the health security system.

(b) The money in the Health Security Fund shall not be considered state revenues or state money or proceeds of taxes for purposes of Sections 3 and 8 of Article XVI of the California Constitution.

25102. (a) If, for each of two consecutive years, the balance remaining in the Health Security Fund at the end of the fiscal year is greater than 1% of the system budget, and the Reserve Account is fully funded, the commissioner shall request the Legislature to reduce the tax rates under this chapter.

(b) Subdivision (a) shall apply only after full phase-in of benefits as set forth in Section 25305.

#### Article 2. Sources of Funding

##### 25105. Federal contributions to the Health Security Fund.

The commissioner shall seek all necessary waivers, exemptions, agreements, or legislation so that all current federal payments for health care shall be paid directly to the health security system, which shall then assume responsibility for all benefits and services previously paid for by the federal government with those funds. In obtaining the waivers, exemptions, agreements, or legislation, the commissioner shall seek from the federal government a contribution for health care services in California that shall not decrease in relation to the contribution to other states as a result of the waivers, exemptions, agreements, or legislation.

##### 25108. State contributions to the Health Security Fund.

(a) The commissioner shall seek all necessary waivers, exemptions, agreements, or legislation so that all current state payments for health care shall be paid directly to the health security system, which shall then assume responsibility for all benefits and services previously paid for by state government with those funds. In obtaining the waivers, exemptions, agreements, or legislation, the commissioner shall seek from the Legislature a contribution for health care services that shall not decrease in relation to state government expenditures for health care services in the year of passage of the act, corrected for change in state gross domestic product and population.

(b) (1) It is the intent of the people that the Legislature cooperate with the commissioner in transferring funding for state programs for health services to the health security system.

(2) Funds transferred from the Cigarette and Tobacco Products Surtax Fund shall be used only to the extent authorized by Article 2 (commencing with Section 30121) of Chapter 2 of Part 13 of Division 2 of the Revenue and Taxation Code.

##### 25110. County and local contributions to the Health Security Fund.

The commissioner shall seek all necessary waivers, exemptions, agreements, or legislation so that all current county or other local agency payments for health care, including employee health benefits and health benefits for retired employees, shall be paid directly to the health security system, which shall then assume responsibility for all benefits and services previously paid for by counties or other local agencies or local governments with those funds. In obtaining the waivers, exemptions, agreements, or legislation, the commissioner shall seek contributions for health care services that shall not decrease in relation to expenditures for health care services in the year of passage of the act, corrected for change in state gross domestic product and population.

25112. The health security system's responsibility for providing care shall be secondary to existing federal, state, or local governmental programs for health care services to the extent that funding for those programs is not transferred to the Health Security Fund or that the transfer is delayed beyond the date on which initial benefits are provided under the health security system.

25113. In order to diminish the administrative burden of maintaining eligibility records for programs transferred to the health security system, the commissioner shall strive to reach an agreement with federal, state, and local governments in which their contributions to the Health Security Fund shall be fixed to the rate of change of the state gross domestic product and population.

##### 25115. Employer contributions to funding the health security system.

All employers shall pay a health security payroll tax commencing January 1 of the second year following passage of this act, as provided in Section 33001 of the Revenue and Taxation Code.

##### 25120. Individual contributions to funding the health security system.

All individuals shall pay a Health Security Fund income tax commencing January 1 of the second year following passage of this act, as provided in Sections 33004 through 33007, inclusive, of the Revenue and Taxation Code.

##### 25126. Medicare Part B.

(a) (1) If and to the extent the Legislature transfers Medi-Cal funding, the commissioner shall pay all premiums, deductibles, and coinsurance for qualified Medicare beneficiaries who are receiving SSI benefits.

(2) In the event and to the extent that the commissioner obtains authorization to fold-in Medicare funds in California, this subdivision shall lapse and be replaced by subdivision (b).

(b) Medicare Part B payments which previously were made by individuals or the commissioner shall, commencing in the second year following passage of this act, be paid by the health security system for all individuals eligible for both the health security system and the Medicare program, provided arrangements have been made to pay Medicare revenues into the Health Security Fund, pursuant to Section 25105.

(c) Until appropriate waivers have been obtained, the commissioner shall make the Part B Medicare premiums for all persons who would have been eligible to have Medi-Cal pay their Medicare Part B premium prior to the effective date of this act.

##### 25130. Cigarette and Tobacco Products Surtax.

All distributors of cigarettes and tobacco products shall pay a Health Security Fund tobacco tax commencing January 1 of the second year following passage of this act, as provided in Section 30123.5 of the Revenue and Taxation Code.

25134. The Legislature may provide for the collection and administration of the taxes imposed by this act consistent with the collection of other similar taxes.

25135. Nothing in this act shall be construed to affect or diminish the benefits that an individual may have under a collective bargaining agreement.

#### Article 3. Federal Preemption

##### 25136. Exempt employers.

(a) (1) An employer is exempt from the payroll tax requirements of Section 25115 of this code and Sections 33001 to 33003, inclusive, of the Revenue and Taxation Code if it has established an employee benefit plan subject to federal law which preempts the funding provisions of this chapter.

(2) Notwithstanding paragraph (1), an exempt employer shall comply with the reporting requirements of subdivision (b) of Section 33001 of the Revenue and Taxation Code, to the extent permitted by federal law.

(b) An employer is exempt from any other provisions of this act to the extent compliance with the provision would be preempted by federal law. It is the intent of the people that the provisions of this act be construed to be consistent with federal law.

##### 25137. Waiver.

(a) The commissioner shall pursue all reasonable means to secure repeal or waiver of any provision of federal law that preempts any provision of this act.

(b) In the event repeal or waiver cannot be secured, the commissioner shall exercise his or her powers to promulgate rules and regulations, or seek conforming state legislation, that are consistent with federal law in an effort to best fulfill the purposes of this act.

##### 25138. Employees covered by health plan subject to preemption.

(a) To the extent permitted by federal law, an employee entitled to health or related benefits under a contract or plan which, under federal law, preempts provisions of this act, shall first seek benefits under that contract or plan before receiving benefits under this act.

(1) No benefits shall be denied under this act unless the employee has failed to take reasonable steps to secure like benefits from the contract or plan, if those benefits are available.

(2) Nothing in this section shall preclude an employee from receiving benefits under this act that are superior to benefits available to the employee under the contract or plan.

(3) Nothing in this act is intended, nor shall this act be construed, to discourage recourse to contracts or plans that are protected by federal law.

(b) Any physician or health care provider, including a hospital, may render services pursuant to a contract or plan subject to federal preemption without regard to the limitations on professional provider fees contained in Section 25180.

(1) To the extent permitted by federal law, the provider shall first seek payment from the contract or plan, before submitting bills to the health security system.

(2) Any fee charged by the provider in excess of the rate set or negotiated by the commissioner shall not serve to increase the amount of funding available to the provider from the health security system in the current or subsequent years.

#### Article 4. Subrogation

25139. (a) It is the intent of the people to establish a single public-payer for all health care in the State of California. However, until such time as the role of all other payers for health care have been terminated, it is the intent of the people to recover health care costs from collateral sources whenever medical services are provided to an individual that are or may be covered services under a policy of insurance, health benefits plan, or other collateral source available to that individual, or for which the individual has a right of action for compensation to the extent permitted by law.

(b) As used in this article, the term collateral source includes all of the following:

(1) Insurance companies and carriers, as defined in Section 14124.70, including the medical components of automobile, homeowners, and other forms of insurance.

(2) Health care and pension plans.

(3) Employers.

(4) Employee benefits contracts.

(5) Government benefits programs including, but not limited to, workers' compensation.

(6) A judgment for damages for personal injury.

(7) Any third party who is or may be liable to the individual for health care services or costs.

(c) The term collateral source does not include either of the following:

(1) A contract or plan subject to federal preemption as described in Article 3 (commencing with Section 25136) of this chapter.

(2) Any governmental unit, agency or service, to the extent that subrogation is prohibited by law. An entity described in subdivision (b) is not excluded from the obligations imposed by this article by virtue of a contract or relationship with a governmental unit, agency, or service.

(d) It is the further intent of the people that the commissioner and the Legislature make every attempt to negotiate waivers, seek federal legislation or make other arrangements to incorporate collateral sources in California into the health security system.

25140. Whenever an individual receives health care services under the health security system for which he or she is entitled to coverage, reimbursement, indemnity, or other compensation from a collateral source, he or she shall notify the health care provider and the commissioner and provide information identifying the collateral source, the nature and extent of coverage or entitlement, and other relevant information as requested by the commissioner.

25141. Use of an eligibility card for, or receipt of, health care services under this act for which an individual is entitled to coverage, reimbursement, indemnity, or other compensation from a collateral source, shall be deemed an assignment by the individual to the health security system of his or her rights from or against the

collateral source, to the extent of services provided under the act. Any provision or agreement between the individual and the collateral source prohibiting assignment of rights shall not be applicable to an assignment under this section. Except as specified in this article, nothing contained in this act affects any person's right to benefits, money, or right of action from or against, a collateral source.

25142. (a) The health security system shall seek reimbursement from the collateral source for services provided to the individual, and may institute appropriate action, including suit, to recover same. Upon demand, the collateral source shall pay to the Health Security Fund such sums as it would have paid or expended on behalf of the individual for the health care services provided by the health security system.

(b) In addition to any other right to recovery provided in this article, the commissioner shall have the same right to recover the reasonable value of benefits from a collateral source as provided to the Director of Health Services by Article 3.5 (commencing with Section 14124.70) of Chapter 7 of Part 3 of Division 9, in the manner so provided.

25143. If a collateral source is exempt from subrogation or the obligation to reimburse the health security system as provided in Sections 25136 and 25139, the commissioner may require that an individual who is entitled to medical services from the source first seek those services from that source.

25144. To the extent permitted by federal law, contractual retiree health benefits provided by employers shall be subject to the same subrogation as other contracts, allowing the health security system to recover the cost of services provided to individuals covered by the retiree benefits, unless and until arrangements are made to transfer the revenues of the benefits directly to the health security system.

25145. Upon integration of workers' compensation health benefits into the health security system, the cost of workplace related medical claims that are found to result from unsafe workplace conditions or negligence on the part of the employer shall be borne by the employer rather than the health security system.

#### Article 5. Other Considerations

25147. (a) Revenue to operate the health security system shall be generated in a manner intended to coincide in the aggregate with financial responsibility for health care expenditures in the base year, and not exceed the limits described in Article 1 (commencing with Section 25150) of Chapter 7.

(b) In the event of unanticipated expenditures in excess of the Reserve Account, or if cost control mechanisms indicated under Article 8 (commencing with Section 25225) of Chapter 7, are unable to lower expenditures without endangering the health of Californians, the commissioner may request the Legislature to increase health security system funding either by increasing tax rates on the sources described in this chapter or from other revenue sources.

(c) In the event that federal health care reform legislation is passed prior to or subsequent to passage of this act, the commissioner shall take all steps necessary to ensure that all funds available to California for benefits and services covered under the federal health security system are paid to the Health Security Fund.

(d) In the event of federal health care reform legislation including payroll, individual income or cigarette and tobacco products taxation, and to the extent that agreements are reached to transfer those revenues into the Health Security Fund, the Legislature may enact a proportional decrease in the payroll, individual, and cigarette and tobacco taxes established by this act pursuant to Sections 30123.5 and 30001 to 30007, inclusive, of the Revenue and Taxation Code in order that revenues to the Health Security Fund be maintained within the limits established by subdivision (a) of Section 25102 and subdivision (a) of Section 25150.

25148. (a) Default, underpayment, or late payment of any tax or other obligation imposed by this act shall result in the remedies and penalties provided by law except as provided in this section.

(b) Eligibility for benefits under Chapter 4 (commencing with Section 25010), except for those benefits provided by Article 4 (commencing with Section 25025) of Chapter 4, relating to long-term care, shall not be impaired by any default, underpayment, or late payment of any tax or other obligation imposed by this chapter.

(c) (1) Eligibility for benefits provided by Article 4 (commencing with Section 25025) of Chapter 4, relating to long-term care, shall not be impaired by any default, underpayment, or late payment of any tax or other obligation imposed on employers by Section 25115.

(2) Eligibility for benefits provided by Article 4 (commencing with Section 25025) of Chapter 4, relating to long-term care, may not be established pursuant to paragraph (2) of subdivision (b) of Section 25006 except upon payment of the taxes or other contributions stated in that section.

25149. Actions taken by the commissioner, including, but not limited to, the negotiating or setting of rates, fees, or prices, and the promulgation of any and all regulations, shall be completely exempt from any review by the Office of Administrative Law, except for subdivisions (a), (c), and (d), and paragraphs (1) and (2) of subdivision (b) of Section 11344, and Sections 11344.1, 11344.2, 11344.3, and 11344.6 of the Government Code, addressing the publication of regulations. This exemption from Office of Administrative Law review includes, but is not limited to, exemptions from Sections 11340, 11340.1, 11340.15, 11342, and 11346.1 as that statute provides for action by the Office of Administrative Law, subdivision (b) of Section 11345.53, subdivision (d) of Section 11346.2, and Sections 11346.7, 11349, 11349.1, 11349.3, 11349.4, 11349.5, 11349.10, and 11349.11 of the Government Code.

### CHAPTER 7. APPROPRIATIONS, BUDGETING, AND EXPENDITURES

#### Article 1. Expenditure Limit

25150. (a) It is the intent of the people that expenditures under this act not exceed in any year expenditures for the prior year adjusted for changes in the

state's gross domestic product and population.

(b) (1) If the Reserve Account is not fully funded, mandatory cost control measures as described in Section 25240 shall be triggered when the cumulative expenditures of the health security system, on an annualized basis, exceed 95% of the health security system budget exclusive of the Reserve Account, except during the last month of the fiscal year.

(2) If the Reserve Account is fully funded, and during the last month of the fiscal year, mandatory cost control measures as described in Section 25240 shall be triggered only when cumulative expenditures of the health security system on an annualized basis exceed 100% of the health security system budget exclusive of the Reserve Account.

#### Article 2. Appropriations

25151. (a) It is the intent of the people that all moneys in the Health Security Fund be appropriated to the health security system to support the implementation of this act.

(b) On July 1 of any year, all moneys in the Reserve Account are appropriated to the commissioner for the purpose of implementing the health security system if a Budget Act for the fiscal year beginning on that July 1 has not been enacted by that date. The authority to spend funds from the Reserve Account for that fiscal year, pursuant to this subdivision, shall be terminated upon enactment of the Budget Act, unless the Budget Act continues that authority.

(c) The Legislature may appropriate additional money from the General Fund or from other sources to support the implementation of this act.

#### Article 3. Health Security System Budgets

##### 25155. Preparation of Budgets.

(a) The commissioner shall prepare an annual budget in the manner prescribed by law. The budget shall include all of the following:

(1) A system budget which includes all expenditures for the health security system.

(2) Regional budgets, which include all expenditures for the health security system within each system region.

(3) Global budgets for each of the two principal mechanisms of professional provider reimbursement (fee-for-service and integrated health delivery system), and for individual health facilities and their associated clinics. The global budgets shall be part of the regional budget for each system region.

(4) A capital expenditure budget, as described in Section 25215.

(b) The commissioner shall prepare the system budget for the health security system to be submitted to the Legislature as part of the Governor's Budget.

##### 25156. System Budget.

(a) The cost of the health security system, including the cost of all services and benefits provided, administration, data gathering and other activities, and revenues deposited within the named accounts pursuant to Section 25250, shall comprise the system budget.

(b) Moneys in the Reserve Account shall not be considered as available revenues for purposes of preparing the system budget.

##### 25157. Regional Budgets.

(a) The commissioner, in consultation with the regional administrator, shall propose a regional budget for each system region.

(b) The cost of all functions of the health security system within the system region, including the cost of all services and other benefits provided, administration, data gathering and other activities, and allocations to the system region from the named accounts, shall comprise the regional budget.

(c) Funds available for system regions shall be equally allocated among the system regions, on a per capita basis, adjusted for variations in population, demographics, incidence of disease, quality and availability of providers, reimbursement rates, and any other factor relevant to a particular system region, as determined by the commissioner.

##### 25158. Global Budgets.

(a) The commissioner, in consultation with the regional administrator, shall prepare a regional budget for each system region. That budget shall include allocations for each of the following:

(1) Fee-for-service providers.

(2) Capitated providers.

(3) Health facilities and associated clinics that are not part of a capitated provider network.

(b) The allocations in subdivision (a) shall consider the relative usage of fee-for-service providers, capitated providers, and health facilities and associated clinics that are not part of a capitated provider network within the system region. The global budgets shall be adjusted from year to year to reflect changes in the utilization of services, changes in copayment for covered services, and the addition or exclusion of covered services made by the commissioner upon recommendation of the advisory board.

(c) The global budget for fee-for-service providers in each system region shall be further divided among categories of licensed professional providers, thus establishing a total annual budget for each category within each region. Each of these category budgets shall be sufficient to cover all included services anticipated to be required by eligible individuals choosing fee-for-service within the region, at the rates negotiated or set by the commissioner, except as necessary for cost containment purposes under Article 8 (commencing with Section 25225) of Chapter 7.

(d) The global budget for capitated providers shall be sufficient to cover all eligible individuals choosing an integrated health delivery system within the system region, at the capitation rates negotiated or set by the commissioner, except as necessary for cost containment purposes under Article 8 (commencing with Section 25225) of Chapter 7.

(e) Each health facility and clinic in a system region, apart from those that are

part of capitated integrated delivery systems, shall have a facility budget that encompasses all operating expenses for the health facility or clinic. In establishing a facility budget, the commissioner shall develop and utilize separate formulae that reflect the differences in cost of primary, secondary, and tertiary care services and health care services provided by academic medical centers.

25162. In preparing the budgets under this article, the commissioner shall consider anticipated increased expenditures and savings including, but not limited to, all of the following:

- (a) Projected increases in expenditures due to improved access for underserved populations and improved reimbursement for primary care.
- (b) Projected administrative savings under the single-payer mechanism.
- (c) Projected savings in prescription drug expenditures under competitive bidding and a single buyer.
- (d) Projected savings in health facility and clinic costs due to decreased acuity of hospitalization in some cases, and appropriate availability of long-term care facilities in other cases.
- (e) Projected savings due to provision of primary care rather than emergency room treatment.
- (f) Projected savings from termination of reimbursement of procedures of no documented benefit or for which appropriate indications are not present.
- (g) Projected savings from diminished reimbursement for procedures and services of marginal benefit, as determined by the advisory board.
- (h) Projected savings from decreased reimbursement of specialty care relative to primary care.
- (i) Projected savings due to regionalization of high-technology and experimental services.

25165. In preparing the system budget the commissioner shall also consider, in addition to changes in the state gross domestic product and population from year to year, anticipated additional expenditures due to medically appropriate increases in utilization due to changes in disease incidence and prevalence among the population, and technological advances allowing better diagnosis and treatment of disease.

25175. (a) Commencing with the second budget year, the administrative costs of the health security system incurred by the commissioner shall be 4 percent or less of the total funds appropriated for the health security system. If administrative costs exceed this target, the commissioner shall report to the Legislature the reasons for excess administrative costs.

(b) That amount of the system budget remaining after funds are allocated for administration, data gathering, and the named accounts pursuant to Section 25250, shall be budgeted for the system regions, in the manner described commencing with Section 25157, to provide benefits pursuant to Chapter 4 (commencing with Section 25010).

#### Article 4. Provider Reimbursement

25180. (a) Professional providers registered for reimbursement with the system shall, with respect to all covered services provided to an eligible individual under Chapter 4 (commencing with Section 25010), do all of the following:

(1) Submit all bills to the regional administrator pursuant to procedures established by the commissioner.

(2) Not charge the system an amount in excess of rates negotiated or set by the commissioner.

(3) Not charge the patient any additional amount or copayment except as specified under Sections 25020, 25030, 25040, and 25305.

(b) Professional providers registered for reimbursement under the system, who have submitted bills for covered services in accordance with the guidelines established by the commissioner, shall be paid promptly. Interest shall accrue on all bills 45 days past due at the rate of 1% per month.

25185. (a) Health facilities and clinics registered with the health security system may choose to be reimbursed on the basis of either a facility budget for all covered services rendered under the health security system based on standards and criteria pursuant to Section 25158, or as a capitated integrated professional provider network pursuant to subdivision (c) of Section 25190.

(b) The budget specified in paragraph (a) shall be negotiated with each participating health facility or clinic on an annual basis, with adjustments during the year made for epidemics and other unforeseen catastrophic changes in the general health status of a patient population, at the discretion of the commissioner.

(c) Surplus generated from the operating section of a health facility or clinic's facility budget shall not be used for the payment or reimbursement of any capital cost, except in accordance with the provisions of Sections 25213 and 25215.

(d) Any surplus a health facility and clinic may be able to generate through increased efficiency of operation may be used to develop new and innovative programs, as approved by the commissioner, or shall be returned to the health security system.

(e) Health facilities and clinics shall inform the commissioner as soon as evidence suggests that operating expenses will exceed the facility budget.

(f) (1) Any real or projected operating deficit as a result of a health facility or clinic exceeding the facility budget shall be investigated by the commissioner. If it is determined that the deficit reflects appropriate increased utilization of services, the facility budget for the health facility or clinic shall be adjusted and appropriately revised in the current or subsequent year, or both, to cover the anticipated shortfall.

(2) To the extent that it is determined that the operating deficit was not justifiable under the policies and terms of the health security system, adjustments in the facility budget shall not be made. Instead, recommendations for improved efficiency or other changes necessary to bring costs within the health facility or clinic's facility budget, or other changes, may be made by the regional administrator. Implementation of these recommendations may be a precondition for funding in the next health security system year.

(g) (1) Every health facility or clinic facility budget shall allow for care of individuals who are not enrolled in the health security system or are not eligible for services, at the same rates as for enrolled individuals, as necessary to provide emergency care and to protect the health and safety of the population as a whole.

(2) Any health facility or clinic that fails to provide full access to all individuals pursuant to paragraph (1) shall be investigated by the commissioner and may be barred from receiving health security system funds in subsequent years, at the discretion of the commissioner, subject to the review procedures in Section 25200.

25190. (a) Physicians, advanced practice nurses, and other independent professional providers may choose from a variety of payment mechanisms for reimbursement. These payment methods may include, but need not be restricted to, fee-for-service, capitation, or a salary from a globally budgeted health facility or clinic for a defined level of service. Nothing in this act shall be construed to permit discrimination in eligibility for reimbursement against a class of professional providers who are providing services within the scope of practice permitted by law.

(b) The commissioner may require that all care under fee-for-service payment be coordinated by a designated primary care provider, and that all individuals select a primary care provider. The primary care provider may be an individual professional provider or a group of professional providers. Under these arrangements, care provided by specialists without referral from a designated primary provider shall be reimbursed at the primary care rate rather than that for specialty care.

(c) (1) An individual professional provider or a group of professional providers may elect to be paid a prospective payment on a capitated basis for all individuals enrolling for care from that professional provider or group of professional providers. Providers accepting payment on a capitated basis cannot also be paid on a fee-for-service basis. All patients receiving care from professional providers participating under prepaid arrangement must do so on a capitated basis. A formal enrollment process shall be adopted whereby individuals voluntarily designate the individual professional provider or group of professional providers for prepaid care. Individuals enrolling under prepaid arrangements shall receive their care from the designated prepaid practice or professional providers authorized by the prepaid practice.

(2) The fee level for capitated reimbursement shall be negotiated annually by professional provider organizations and the commissioner, or set by the commissioner, and shall apply uniformly to all professional providers in the system region. The capitated fee level shall be adjusted based on health risk of enrollees, scope of ambulatory services provided by the professional provider, and any other relevant factors. At a minimum, the scope of services covered by the capitated payment shall include all primary care services. Capitated contracts may include stop-loss measures for catastrophic expenses and any other measures necessary to maintain fairness and fiscal stability.

(d) Compensation for professional providers who provide services as employees of, or under contract to, health facilities or clinics, shall be covered under the facility budget of those health facilities or clinics.

25195. (a) The commissioner shall recognize professional associations to represent licensed professional providers in each system region in negotiations with the commissioner on reimbursement and other professional issues.

(b) It is the intent of the people that the Legislature establish procedures allowing each category of professional provider in a system region to choose, by majority vote of that category of professional provider, the organization or association in each region that shall be their representative in all negotiations with the commissioner.

(c) All professional provider organizations may participate in annual negotiations. All professional providers within a category shall be bound by the results of the negotiations between the commissioner and the organization representing that category of professional provider.

(d) In the event that negotiations with professional providers and others are not concluded in a timely manner, the commissioner may set rates, fees, and prices for services reimbursed by the health security system.

25196. (a) Notwithstanding Section 25195, the commissioner shall establish a limit on the aggregate annual payments to an individual professional provider, or discounts on reimbursements above a specified amount of aggregate billing, as negotiated with the professional associations.

(b) An individual professional provider whose billing volume or distribution suggests the possibility of impropriety may be subject to investigation by the commissioner through either the regional administrator or the regional consumer advocate and may be subject to exclusion or other penalties pursuant to Chapter 9 (commencing with Section 25282).

25200. (a) (1) A health facility or clinic and a group of physicians and other professional providers may organize as an integrated delivery system providing the full spectrum of health care services to a defined population of enrollees. Such integrated systems may be paid by the health security system on a capitated basis to provide the full spectrum of benefits covered by the health security system. Nothing in this act shall prevent an integrated delivery system from offering benefits beyond those set forth in Chapter 4 (commencing with Section 25010). The fee level for capitated reimbursement shall be negotiated on a regional basis by professional provider organizations and the commissioner, based on health risk of enrollees, and any other relevant factors, and shall apply uniformly to all professional providers in the region.

(2) Health facilities and clinics participating under this capitated arrangement as part of an integrated delivery system are exempt from negotiating separate operating budgets with the health security system. However, they are not exempt from regulation of capital investment as specified in Article 5 (commencing with Section 25213).

(b) (1) Health facilities, clinics, and professional providers organizing as integrated delivery systems that are for-profit shall have their profits restricted to a fair rate of return to be negotiated with the commissioner and are subject to the

same restrictions on capital expansion that apply to all other health facilities, clinics and professional providers.

(2) Health facilities, clinics, and providers organizing as an integrated delivery system that are for-profit shall be capitated or facility budgeted by the same criteria and at the same rates as non-profit entities.

(c) If any professional provider involved in an integrated system has an existing collective bargaining agreement or agreements, those collective bargaining agreements may be extended to the employees of all of the professional providers in the integrated system, unless otherwise prohibited by law.

(d) Nothing in this act shall prevent the commissioner, after public hearings, from termination of the participation of a health facility or clinic in the health security system, should credible evidence lead the commissioner to conclude either of the following:

(1) That the health facility or clinic is unable to meet minimum requirements relating to the number and type of professional providers on the staff, the type of equipment available to the facility or the range of specialty services provided by the facility, or other standards and criteria.

(2) That the health facility or clinic provides care significantly below the standard for facilities in the region.

(e) The commissioner shall develop different standards and criteria pursuant to subdivision (d) for urban and rural health facilities. Under the circumstances of subdivision (d), the commissioner may authorize conversion of the facilities to meet health care needs in such areas as long-term care.

25205. (a) The commissioner shall provide clear and well-publicized procedures whereby individuals eligible for benefits under the health security system may voluntarily enroll under capitated payment arrangements with a specified professional provider, group of professional providers, or integrated delivery system. Individuals shall be entitled to disenroll from such capitated practices as specified in subdivision (b). Enrollment and disenrollment shall be administered by the health security system and not delegated to professional providers or professional provider organizations for the purposes of processing or otherwise administering enrollment and disenrollment procedures.

(b) Every six months, individuals enrolled in a capitated practice shall be entitled to an open enrollment period of not less than two weeks, pursuant to regulations promulgated by the commissioner.

(c) During the open enrollment period, an individual may enroll in another capitated practice or choose a primary care provider in the fee-for-service sector.

(d) An individual who has selected a primary care provider in the fee-for-service sector may choose to switch to enrollment in a capitated practice at any time.

(e) Any professional provider accepting payment from the health security system on a prepaid basis shall allow any eligible individual to enroll in the order of application, up to a reasonable limit determined by the capacity of the capitated practice to provide services.

(f) Providers accepting payment from the health security system on a prepaid basis, as a condition of approval to participate in the provision of benefits under this division, shall demonstrate they will provide, or arrange and pay for, all of the benefits required for the capitation payment negotiated or set by the commissioner.

(g) Nothing in this division shall prohibit an integrated delivery system or other capitated practice from offering additional benefits beyond those set forth in Chapter 4 (commencing with Section 25010). The additional benefits shall be clearly set forth in disclosure and practice description materials provided to individuals eligible for services under this division.

25210. (a) The commissioner shall incorporate into the reimbursement policies specific financial incentives for professional providers to perform community outreach and preventive services. As a condition of receiving the incentives, professional providers shall coordinate their efforts with those of the State Department of Health Services, local health departments, and other agencies funded from the Public Health and Prevention Account, in a manner specified by the commissioner.

(b) (1) The commissioner shall reimburse collaborative practice costs to meet the objectives of community-oriented primary care including the costs of visiting health workers and public health nurses working with primary care providers, including physicians, advanced degree nurses, and physician assistants.

(2) The commissioner may institute reimbursement mechanisms which have as their purpose improving the availability of health care services to underserved areas and populations.

(c) The commissioner shall consider the special needs and requirements of rural hospitals in California that are financially distressed and in danger of closure. The commissioner may provide technical assistance with respect to the reimbursement and other requirements and procedures of the health security system to financially distressed rural hospitals, when appropriate, in order to preserve the availability of health care services.

#### Article 5. Capital Expenditures

25213. (a) (1) The purpose of this article is to assure that health care facilities that are reimbursed by the health security system do not engage in unnecessary capital expenditures and thereby contribute to health care cost inflation.

(2) Commencing on the operative date of this article, no licensed health care facility or any individual acting on behalf of a licensed health care facility shall incur a capital expenditure as defined herein, and no health facility can receive Health Facility Construction Loans, pursuant to Chapter 4 (commencing with Section 436) of Part 1 of Division 1 of the Health and Safety Code without obtaining the prior approval of the commissioner.

(3) The commissioner shall exclude from any reimbursement under this division amounts for capital expenditures, operating expenses for capital improvements, and the cost of services provided by those capital improvements, made or incurred by a health facility, clinic, or provider after the date of passage of this act, unless that capital expenditure was approved by the commissioner.

(4) As used herein the term "capital expenditure" is an expenditure that, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance and that does any of the following:

(A) Exceeds five hundred thousand dollars (\$500,000).

(B) Changes the bed capacity of the facility with respect to which the expenditure is made.

(C) Adds a new service or license category.

(5) For purposes of this section, the cost of studies, surveys, design plans and working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the plant and equipment with respect to which the expenditures are made shall be included in determining whether the expenditure exceeds the dollar amount specified in this section.

(6) When a health care facility or individual acting on behalf of a health care facility obtains by lease or comparable arrangement any facility or part thereof or any equipment for a facility, the market value of which would have been a capital expenditure, the lease or arrangement shall be considered a capital expenditure for purposes of this section.

(b) The commissioner shall only approve a capital expenditure if it is in conformity with standards, criteria, and plans developed by the commissioner to accomplish one or more of the following:

(1) Fill unmet needs.

(2) Eliminate duplicative, inappropriate, or unnecessary services by regionalizing tertiary care services in appropriate facilities.

(3) Encourage the expansion of those facilities with superior records of consumer satisfaction and operating efficiency.

(4) Convert to non-acute care uses general acute care hospitals of less than 150 licensed beds within Standard Metropolitan Statistical Areas.

(5) Assure that health care facilities are accessible to all parts of the community including the disabled and populations with special medical needs.

(6) Promote joint, cooperative, or shared health care resources.

(7) Assure the development of new technologies in appropriate facilities.

(8) Meet the special needs of rural hospitals.

(c) (1) The commissioner shall establish procedures for the review of capital expenditures.

(2) The procedures may provide that all capital expenditures in a particular region or for one or more particular purposes submitted over a period of time of up to one year, may be reviewed together at the same hearing.

(d) Notwithstanding the provisions of subdivision (b), the commissioner may approve capital expenditures for either of the following reasons:

(1) If necessary to meet parking, seismic safety, fire safety, physical accessibility for the disabled, energy or water conservation, or other public health and safety requirements of federal, state, or local government.

(2) If necessary to replace physical plant and equipment damaged or destroyed by fire, earthquake, or other natural disaster.

(e) Notwithstanding any other provision of law, the commissioner may approve the temporary or permanent conversion of general acute care beds to skilled nursing beds or the addition of skilled nursing beds to any general acute care hospital.

#### Article 6. Capital Allocation

25215. (a) Funds appropriated for capital expenditures pursuant to the capital expenditures budget shall be placed in the Capital Improvements Account, pursuant to this section and Section 25155.

(b) Once a capital expenditure request has been approved by the commissioner, it may be funded either from the Capital Improvements Account or from other sources. All capital improvements made from the Capital Improvements Account shall remain the property of the State of California under the health security system.

(c) No later than January 1 of the second year following passage of this act, the commissioner shall report on the capital needs of health facilities and clinics in each system region. In addition to any other matter deemed relevant by the commissioner, the report shall identify the capital needs of all of the following:

(1) County health facilities and clinics.

(2) Underserved geographic areas with per capita investment in health facilities and clinics substantially different from the state average.

(3) Geographic areas where the distance to health facilities and clinics imposes a barrier to care.

#### Article 7. Formulary

25216. (a) In order to achieve the lowest possible cost for prescription drugs the commissioner shall do all of the following:

(1) Establish a health security system formulary composed of the best-priced prescription drugs of proven efficacy for a particular condition. The formulary may include in whole or in part the List of Contract Drugs established pursuant to Sections 14105.3 through 14105.35, inclusive, and Section 14105.405 of the Welfare and Institutions Code. The commissioner shall have the authority to enter into purchase contracts for prescription drugs pursuant to these sections.

(2) Use his or her bidding power to negotiate directly from the manufacturer the lowest possible prices for drugs provided under the health security system.

(3) Establish standards and criteria as needed to ensure that only those prescription drugs on the formulary shall be reimbursed under the health security system.

(4) Establish standards and criteria as needed to ensure that formulary drugs are substituted for prescriptions written for comparable non-formulary drugs, with the approval of the prescribing provider.

(5) Establish standards and criteria by which certain non-prescription, over-the-counter, investigational, and other exceptional drugs, and nutritional supplements, that are of particular benefit for the treatment of specific medical

conditions, or that are cost-effective compared to prescription drugs, may be reimbursed when prescribed by a licensed provider acting within the scope of his or her practice.

(6) Use his or her express or implied powers to reduce the direct cost of prescription drugs.

(7) Encourage the rational use of prescription drugs through educational, outreach, and other programs.

(b) In establishing the formulary and standards and criteria for purposes of this section, the commissioner shall seek the advice of the advisory board.

(c) Formulary drugs, reimbursable under the health security system, shall be substituted for prescriptions written for comparable non-formulary drugs, with the approval of the prescribing provider, pursuant to standards and criteria.

#### Article 8. Cost Control Measures

25225. The commissioner shall not carry out any cost control measure that limits access to care that is needed on an emergent or urgent basis, or that is medically appropriate for treatment of a patient's medical condition.

25226. (a) In order to control costs the commissioner shall strive at all times to do all of the following:

(1) Eliminate administrative and other costs that do not contribute to health care.

(2) Identify and eliminate wasteful and unnecessary care that is of no benefit to patients receiving that care.

(3) Identify and foster those measures that prevent disease and maintain health.

(b) (1) In the event that the measures taken pursuant to subdivision (a) are insufficient to maintain the fiscal integrity of the health security system, the commissioner shall study the contribution of inappropriately provided services to escalating costs. The commissioner shall adjust the next year's budgets, pursuant to Sections 25155 and 25162, to correct for the degree of overutilization identified for particular services or particular categories of licensed providers, under particular modes of reimbursement.

(2) Restrictions in budgets under paragraph (1) may be employed only to the extent necessary to correct for the proportion of cost increase in excess of that resulting from appropriate utilization, based on incidence of illness in the population, that is due to the particular services, category of provider, or mode of reimbursement being restricted, as determined by the commissioner.

25240. (a) In the event that cost control is required by subdivision (b) of Section 25150, the commissioner may request that the Legislature increase appropriations for the health security system. Any request shall be accompanied by a report on the causes of the increase in expenditures beyond the increase in gross domestic product, adjusted for population, and measures taken to control costs pursuant to Section 25226.

(b) In the event the actions taken pursuant to subdivision (a) and Section 25226 are insufficient to contain costs or increase revenues, the commissioner may, as necessary, defer funding of the Reserve Account and reduce funding of the named accounts for a period not to exceed one year, and establish restrictions or copayments on elective services.

(c) Restrictions on, and copayments for, elective services, as necessary to balance the system budget, shall be applied by the commissioner in order of increasing efficacy, as determined by the advisory board, in order that those elective services that are clearly beneficial for treatment of a patient's condition be the last services to be restricted or to have a copayment applied.

(d) Measures taken under subdivision (b) and Section 25226 shall not be used to restrict coverage of a specific diagnosis, unless the commissioner finds both of the following:

(1) That the diagnosis or the available treatments are often inappropriate.

(2) That a means of distinguishing appropriate from inappropriate utilization of services for the diagnosis is established based on recommendations of the advisory board.

#### Article 9. Named Accounts in the Health Security Fund

25250. There are in the Health Security Fund a number of named accounts. The commissioner shall propose budgets that fully fund these accounts as provided for in this act except under the circumstances described in Section 25240:

(a) The Public Health and Prevention Account.

(b) The Innovations Account.

(c) The Capital Improvements Account.

(d) The Reserve Account.

(e) The Health Worker Training Account.

25251. (a) There is in the Health Security Fund the Public Health and Prevention Account. Funds in the Public Health and Prevention Account shall be budgeted for programs designed to prevent disease, including, but not limited to, community-based disease prevention and health promotion programs, training programs, and research as described in Chapter 8 (commencing with Section 25260).

(b) The programs funded by the Public Health and Prevention Account shall give priority to meeting the population-based health care needs of population groups with the greatest unmet needs, to provide public health outreach to underserved populations, and research designed to better understand, reduce, or eliminate the causes of illnesses in the population as a whole and enhance quality of life.

(c) All existing population-based public health programs of the State Department of Health Services and the county departments of health, shall be funded from the Public Health and Prevention Account. Nothing in this act shall be construed to require any decrease in funding for population-based programs of the State Department of Health Services and the county departments of health.

(d) The Public Health and Prevention Account shall be used to provide

additional funding for existing programs of the State Department of Health Services and funding for new programs designed to improve health outcomes of the population by addressing the educational, social, economic, basic biological, and other causes of ill health.

(1) To develop new programs for funding by the Public Health and Prevention Account, the commissioner may consult with the Director of Health Services, local health officers, directors of county health departments, the State Superintendent of Public Instruction, directors of other state and local human services programs, and the deans of health professional training programs, academic medical centers, and schools of public health in the state, in order to determine the areas of investment likely to have the greatest impact on future improvement of health outcomes for the population in each system region.

(2) New programs shall be coordinated with existing public health and human services programs and may be funded by grants to any state, local, or private nonprofit human services agencies, or may be established by the commissioner directly.

(e) The Public Health and Prevention Account may be used to provide funding for school-based nurses to provide such services as immunizations and health education, as deemed appropriate by the commissioner.

(f) (1) In the first four budget years under this act, the commissioner's proposed budget shall include funding of the Public Health and Prevention Account at a level not less than the sum of all population-based public health expenditures of the state and local health departments in the base year, supplemented by an additional one percent (1%) of anticipated total annual health security system revenues for the first year, and amounts in the second through fourth years that will achieve the level of funding specified in paragraph (2).

(2) In the fifth year and subsequent budget years under this act, the commissioner's proposed budget shall include funding of the Public Health and Prevention Account at a level not less than five percent (5%) of total annual health security system revenues.

25252. (a) There is in the Health Security Fund the Innovations Account. Funds in this account shall be expended for research and development of new strategies for disease treatment and cure. These funds shall also be used to guarantee that new technologies, approaches, and insights into disease treatment and cure are developed in order that they be available to all Californians at regional tertiary care referral centers.

(b) The commissioner's proposed budget shall include funding of the Innovations Account at a level not less than one percent (1%) of total annual health security system revenues.

25253. (a) There is in the Health Security Fund the Capital Improvements Account. The commissioner, in consultation with the advisory board, shall propose the amount to be included in each regional budget for capital improvements to be funded out of the Capital Improvements Account.

(b) To ensure survival and transition for state, county or municipally operated facilities, the funds in the Capital Improvements Account shall be disbursed, for a period of at least three years, in a manner proposed by the commissioner, to give priority to the capital needs of those facilities.

(c) Allocation of funds for capital expenditures in each system region shall require approval of the commissioner and shall be funded from the Capital Improvements Account.

(d) Notwithstanding any other provision of law, it is the intent of the people that no funds shall be appropriated for any health facility or clinic-related capital improvements above five hundred thousand dollars (\$500,000) per health facility or clinic in any year, unless that capital improvement is approved by the commissioner.

25254. (a) There is in the Health Security Fund the Reserve Account. The Reserve Account shall be considered to be fully funded when it contains an amount not less than five percent (5%) of total health security system revenues in a given year.

(b) The commissioner shall retain the Reserve Account for budgetary shortfalls, epidemics, or other extraordinary circumstances as defined by the commissioner and as set forth in Section 25151. The commissioner's proposed budget shall contain funding for the Reserve Account equal to one percent (1%) of the system budget, unless the commissioner determines that a different amount is needed for prudent operation of the health security system.

25255. (a) There is in the Health Security Fund, for a period of at least three years after benefits are first provided, a Health Worker Training Account.

(1) The commissioner's proposed budget shall contain funding for the Health Worker Training Account equal to one percent (1%) of the system budget, unless the commissioner determines that a different amount is needed for prudent operation of the health security system.

(2) Funds in the Health Worker Training Account may be used to allow health workers displaced by transition to the health security system to be retrained and placed in jobs that meet the new needs of the system.

(3) It is the intent of the people that the Legislature, in consultation with the commissioner, establish job retraining or apprenticeship training programs in each system region, pursuant to this section, to be funded from the Health Worker Training Account.

(b) After three years, the commissioner may do either of the following:

(1) Propose termination of the Health Worker Training Account.

(2) Continue the Health Worker Training Account, and its inclusion in the commissioner's proposed budgets, for the purpose of providing career education and training assistance that will enhance the delivery of health care to California communities that are underserved either in the quality of health care or in accessibility to health care providers.

#### Article 10. Transfer of Other State Programs

25257. (a) Programs for individual clinical prevention and treatment,

previously administered by the State Department of Health Services, the State Department of Mental Health, the Department of Rehabilitation, the Department of Aging, the State Department of Developmental Services and the State Department of Social Services, and any other state or county entity that provides individual clinical prevention and treatment services, shall be administered by the commissioner to the extent that those programs are transferred to the health security system.

(b) Local health departments shall continue to provide clinical services when needed to reach special or underserved populations and to fulfill the counties' responsibility to provide health care services pursuant to Section 17000 of the Welfare and Institutions Code. However, to the greatest extent possible, those facilities shall be funded for these services from the Health Security Fund under the same overall operating expense budgets according to formulae applied to all health facilities and clinics.

(c) Those programs concerned with population-based public health activities and core public health functions shall remain the responsibility of the State Department of Health Services and shall be funded from the Public Health and Prevention Account pursuant to Section 25251.

(d) It is the intent of the people that the Legislature take steps to consolidate the administration of residual programs in those state departments whose functions have been significantly appropriated to the health security system, in order to maintain administrative efficiency and to effectively carry out the goals for which any residual programs were established.

#### CHAPTER 8. PRIMARY CARE, TERTIARY CARE, PUBLIC HEALTH, RESEARCH, AND HEALTH CARE WORKER TRAINING AND DISTRIBUTION

##### Article 1. Primary Care

25260. The people find that quality and efficiency in the delivery of health care services can best be achieved when the ratio of primary care to specialist physicians is one-to-one. Accordingly, the commissioner shall develop and implement appropriate policies which are intended to achieve this ratio.

##### Article 2. Tertiary Care

25265. (a) The commissioner shall designate one or more tertiary care referral centers for each system region, where particular specialized, experimental, high-technology, and high-expense procedures and services shall be performed based on the expertise available, and outcomes demonstrated at those centers.

(1) The commissioner shall guarantee that specialized, high-technology, and high-expense procedures and services are performed at the highest level of competency possible and are fully available to all Californians with conditions whose effective treatment requires such care.

(2) The commissioner shall guarantee that the specialized services available in tertiary care referral centers are not in oversupply or otherwise available in ways that are likely to foster their inappropriate utilization.

(3) Tertiary care referral centers shall include, but need not be limited to, academic medical centers and county hospitals in the region, unless the commissioner finds compelling reasons to designate otherwise.

(b) The services whose reimbursement is restricted to the designated tertiary care referral centers shall be determined and specified no less than yearly by the commissioner on recommendation of the advisory board.

(c) The commissioner shall take such measures as are necessary to ensure that regionalization of specialized services does not result in barriers to appropriate and reasonable access to those services.

##### Article 3. Public Health

25270. (a) The advisory board shall make recommendations to the commissioner on technology assessment, cost-effectiveness, practice guidelines and standards, and promotion of population-based health strategies with an emphasis on prevention. Funding to carry out these recommendations, and to carry out public health research to promote disease prevention strategies shall be budgeted from the Public Health and Prevention Account in the form of grants for specific programs of the State Department of Health Services, county health departments, State Department of Education, or other state or local government or private non-profit human services agencies, or to programs established directly by the commissioner.

(b) It is the intent of the people that the Legislature not use funding by the commissioner of new programs under the auspices of the State Department of Health Services, county health departments, State Department of Education, or other state or local government or private non-profit human services agencies as a basis for diminishing existing funding of these departments and agencies.

##### Article 4. Academic Medical Centers

25275. (a) The commissioner shall acknowledge the special role of academic medical centers in providing individual health care services delivery, public health and basic research affecting health care outcomes and costs, and health worker education and training, by establishing special formulae by which facility budgets for academic medical centers are established.

(b) The commissioner shall meet with representatives of academic medical centers no less than yearly to promote the needs of the health security system and better coordinate health worker supply, distribution and demand to fulfill the objectives of this act. These objectives include:

(1) Achieving the targeted ratio of primary care to specialist physician providers specified in Section 25260.

(2) Achieving the number, geographic, discipline and specialty distribution of professional providers to that needed by the state as a whole.

(3) Adjusting, over a period of years to be determined by the commissioner, the number and geographic and specialty distribution of professional providers as needed to staff underserved areas and communities.

(c) Actions of the commissioner with respect to academic medical centers shall be limited to filling those needs resulting from the replacement of multiple third party providers by a single-payer for health care services.

##### Article 5. Research

25280. (a) The commissioner may provide competitive grants to academic medical centers and other health professional schools in the state and to local health care experts in the regions to improve the effectiveness of the health security system at a level of funding recommended by the advisory board. The funding shall be for the following purposes:

(1) (A) To determine, and periodically review, the medical conditions that are effectively treated by particular new and currently practiced procedures and services;

(B) The outcome of these studies shall be provided to the advisory board for use in establishing recommendations regarding medical indications for new and currently practiced services and procedures, and to the commissioner and professional provider representatives for the purposes of negotiating rate and fee schedules for professional provider reimbursement and health facility or clinic facility budgets, and in decisions regarding capital expansion.

(2) To carry out basic biomedical and clinical research whose eventual outcome may prevent disease or allow it to be treated with greater efficacy and cost-effectiveness than is the case now.

(3) To carry out research into all aspects of health care services, organization, delivery, and population-based public health.

(b) Specific funding for these and other activities which explore new and innovative approaches to the current and future health care needs of California shall, upon appropriation of the Legislature, come from, but need not be limited to funds from, the Public Health and Prevention Account and the Innovations Account and shall be calculated separately from the facility budget for provision of services and health worker training of academic medical centers or the budget for local health departments.

##### Article 6. Miscellaneous

25281. The commissioner may establish standards and criteria regarding any aspect of primary care, tertiary care, public health, health worker training, and research not specified in this chapter.

##### CHAPTER 9. ENFORCEMENT

25282. (a) No provider that receives funds or provides care pursuant to this division, shall discriminate against a person seeking care on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, sexual orientation, age, wealth, or any other basis prohibited by the civil rights laws of this state; provided that nothing in this act shall require a professional provider or health facility or clinic to perform a particular service where either of the following applies:

(1) The particular service is outside its scope of practice which is bona fide limited to certain medical specialties, services, or age groups.

(2) The professional provider or health facility or clinic asserts a religious or conscientious objection to providing the particular service.

(b) Any person who is eligible for health care services under this division has the right to equitable access to medically appropriate health care, and shall have standing to enforce this section.

25283. (a) Standards and criteria shall be established to assure that health care providers shall not have a financial interest in laboratory and diagnostic facilities to which they refer patients for tests, procedures, or services.

(b) Standards and criteria shall be established regarding financial disclosure by any health facility, clinic, or professional provider reimbursed under the health security system, in order to safeguard patient care and the integrity of the system.

25284. The commissioner shall exclude the following providers from participation in any program under this act:

(a) Any provider that has been convicted, under either state or federal law, of a criminal offense relating to any of the following:

(1) The delivery of an item or service under the act or any other federal or state health care program.

(2) The neglect or abuse of a patient in connection with the delivery of health care.

(3) Fraud, theft, embezzlement, breach of financial responsibility, or other financial misconduct in connection with the delivery of health care or with respect to any act or omission in a program operated by or financed in whole or in part by any federal, state, or local government agency.

(4) The interference with or obstruction of any act of the commissioner.

(5) The unlawful manufacture, distribution, prescription or dispensing of a controlled substance.

(b) Any provider whose license to provide health care has been revoked or suspended by any state licensing agency or who otherwise lost a license or the right to apply for or renew a license, for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity.

(c) Any provider that has been suspended or excluded from participation in any federal or state program involving the provision of health care, including, but not limited to, Medicare, Medi-Cal, and programs of the Department of Defense and the Veterans Administration.

(d) Any provider that the commissioner determines any of the following:

(1) Has submitted or caused to be submitted to the commissioner bills or requests for payment for items or services furnished, where the bills or requests are based on charges or costs in excess of permitted charges or costs, unless the commissioner finds there is good cause for the bills or requests.

(2) Has furnished or caused to be furnished items or services to patients substantially in excess of the needs of the patients or of a quality that fails to meet



professional recognized standards of health care.

(3) Is a health maintenance organization or other capitated program and has failed substantially to provide medically necessary items and services that are required under this act to be provided to eligible individuals if the failure has adversely affected or has had a substantial likelihood of adversely affecting those individuals.

(e) Any provider that did not fully or accurately make any disclosure required to be made by a health care facility or other provider under this act.

(f) Any provider that fails to grant the commissioner access upon reasonable request of the commissioner, pursuant to regulations promulgated by the commissioner, to enable the commissioner to do any of the following:

(1) To review data and records relating to compliance with conditions for participation and payment.

(2) To perform the reviews and surveys required by this act.

(3) To review records, documents, and other data necessary to the performance of the statutory functions of the commissioner.

25285. The commissioner may exclude the following providers from participation in any program under this act:

(a) Any provider found to violate Sections 25282 or 25283.

(b) Any person, including an organization, agency or other entity, but excluding a covered individual, that presents or causes to be presented to an officer, employee or agent of the commissioner a claim or request for payment that the commissioner determines meets any of the following descriptions:

(1) Is for a service or item that the person knows or should know was not provided as claimed.

(2) Is for a service or item and the person knows or should know the claim is false or fraudulent.

(3) Is presented for a physician's service or an item or service incident to a physician's service by a person who knows or should know that the individual who furnished or supervised the furnishing of the service was not licensed as a physician or was not certified in a medical specialty by a medical specialty board when the individual was represented as certified or the individual had been previously excluded from participation.

(4) Is in violation of this act or any regulation issued thereunder

(c) Any person, including an organization, agency, or other entity, but excluding a covered individual that does any of the following:

(1) Makes a payment or provides an item or service, directly or indirectly, to any other provider, as an inducement to reduce or limit the service provided to a covered individual under this act.

(2) Offers to pay or solicits or receives any remuneration (including, but not limited to, any kickback, bribe, or rebate), directly or indirectly, overtly or covertly, in cash or in kind, in return for either of the following:

(A) Referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment is made under this act.

(B) Purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service or time for which payment may be made in whole or in part under this act.

(d) Subdivision (c) shall not apply to any of the following:

(1) Any discount or other reduction in price obtained by a provider of service or other entity if the reduction in price is properly disclosed and appropriately reflected in the costs claimed or charges made by the provider or entity under this act.

(2) Any amount paid by an employer to an employee (who has a bona fide employment relationship with that employer) for employment in the provision of covered items and services.

(3) Any other agreement or payment practices that the commissioner determines, pursuant to regulations promulgated by the commissioner, are not primarily intended to induce or influence the quantity or quality of services provided under this act.

(e) (1) Any provider found to provide substandard care or engage in unprofessional conduct.

(2) Standards and criteria shall be established to review the care provided by providers to detect potential and actual quality of care problems and to prevent over-utilization or under-utilization of services paid for by the health security system.

25286. In addition to any other penalties prescribed by law, the commissioner may impose a civil money penalty of not more than \$5,000 for each violation of this chapter. In addition, such a person shall be subject to an assessment of not more than twice the amount of unlawful payment or damages sustained by the State of California resulting from the violation. In addition, the commissioner may make a determination in the same proceeding to exclude the person from participation in the health security system.

25289. The commissioner shall establish regulations and procedures for the review of any action which may result in exclusion or penalties under this chapter.

(a) In the case of exclusion or limitation under subdivision (e) of Section 25285, the review procedures shall be consistent with those required by Sections 809 through 809.9, inclusive, of the Business and Professions Code. The commissioner and all other individuals participating in the review procedures shall have all the immunities provided to a hospital by Sections 43.7, 43.8, 43.9, and 47 of the Civil Code, and Section 2318 of the Business and Professions Code. The review procedures shall be protected from discovery by Sections 1156, 1156.1, 1157, and 1157.5 of the Evidence Code.

(b) In the case of exclusion, limitation or penalty for any other reason permitted by this chapter, the review procedures shall be consistent with Section 25405.

25290. (a) An exclusion shall be effective at such time and upon such conditions as the commissioner determines.

(b) An exclusion may be terminated at such time and upon such conditions as the commissioner determines.

25291. (a) The commissioner shall provide notice to the public of all exclusions in accordance with regulations promulgated by the commissioner.

(b) The commissioner shall file a report pursuant to Section 805 of the Business and Professions Code with respect to any professional provider whose participation in the health security system has been limited in any way or who has been excluded from participation.

## CHAPTER 10. IMPLEMENTATION

### Article 1. Initial Health Security System Budget

25300. (a) The commissioner shall seek from the Legislature sufficient appropriation for start-up expenditures and transition costs.

(b) Any money appropriated under subdivision (a) shall be repaid with interest to the General Fund from the Health Security Fund within two years, unless a longer period is authorized by the Legislature.

### Article 3. Phase-In of Benefits

25305. (a) Benefits under Article 2 (commencing with Section 25015), Article 3 (commencing with Section 25020), and Article 5 (commencing with Section 25030) of Chapter 4 shall be available to eligible individuals commencing January 1 of the second year following passage of this act.

(b) During the first year of benefits under this act, the commissioner may establish copayments as follows:

(1) For any elective service or prescription drug not to exceed \$5 for each procedure or prescription.

(2) For outpatient mental health care services, after the 26th service rendered in the year, not to exceed:

(A) In the case of services rendered by fee-for-service providers, 50% of the fee charged for each visit or rendered service.

(B) In the case of services rendered by capitated providers, \$25 per visit or rendered service.

(3) Individuals who receive benefits under the federal Medicare program, the CHAMPUS Program, or the Federal Employees' Health Benefit Plan, or who are exempt from copayments under federal law, shall not be required to pay the copayments specified in this section.

(c) After the first year of benefits under this act, no copayment shall be required for any covered benefit, other than as established by the commissioner pursuant to Sections 25020 and 25240, provided that the commissioner may extend the period of copayment under subdivision (b) for up to one additional year upon making a finding that the health security system is not yet capable of absorbing the full cost of the benefits.

(d) Benefits under Article 6 (commencing with Section 25035) of Chapter 4 shall be available to eligible individuals commencing January 1 of the third year following passage of this act.

(e) Benefits under Article 4 (commencing with Section 25025) of Chapter 4 shall be available to eligible individuals commencing January 1 of the fourth year following passage of this act.

### Article 4. Health Worker Staffing Ratio Changes

25310. (a) Commencing on the effective date of this act, no health facility, clinic, or professional provider shall increase the ratio of patients to licensed or registered nurses without the approval of the commissioner. Petitions for waivers shall be made public and may not be approved without 60 days public notice.

(b) Prior to the date benefits are first available under this act, the commissioner shall establish minimum safe staffing standards for all settings in which health care is provided including minimum public health staffing standards.

### Article 5. Transition of Capitated Integrated Health Delivery Systems

25311. (a) Individuals enrolled in a capitated integrated health delivery system on December 31 of the first year following passage of this act, shall be considered enrolled in that integrated health delivery system for the purposes of initial benefits effective January 1 of the second year following passage of this act, unless the particular integrated delivery system in which they are enrolled has not been registered by the health security system or has selected a non-capitated mode of reimbursement under the health security system.

(b) The commissioner shall meet with representatives of registered integrated health care delivery systems in each system region no less than four months prior to providing initial benefits under this act, for the purposes of coordinating their transition to the health security system.

(c) The commissioner shall consider the special needs and requirements of capitated integrated health care delivery systems in California. The commissioner may provide technical assistance or promulgate regulations with respect to the reimbursement and other requirements and procedures of the health security system to ease the transition of capitated integrated health care delivery systems in order to preserve the availability of health care services in California.

## CHAPTER 11. MISCELLANEOUS

### Article 1. Hearings and Judicial Review

25400. (a) Any person aggrieved by a decision, order, rate, rule, regulation, action or failure to act, of or by the commissioner, a regional administrator, or a regional consumer advocate, may seek judicial review.

(1) A decision that is required by law to be made following a quasi-adjudicatory hearing shall be set aside only if it is not supported by substantial evidence. Any other decision, order, rate, rule, regulation, action or failure to act, shall be set aside only if it is arbitrary and capricious.

(2) In suits brought by one or more individuals contesting an action of the commissioner restricting coverage afforded them under this program, a prevailing plaintiff shall be awarded costs of suit and reasonable attorney's fees.

(b) In any action or proceeding challenging a legislative amendment to this act:

(1) The party or parties asserting the validity of the amendment shall have the burden of proof by clear and convincing evidence that the amendment is consistent with the purposes of this act. The purposes of this act include not only the intent, findings, and declarations set forth in Sections 25001 and 25002, but also the means the act employs to achieve its stated aims.

(2) A legislative amendment inconsistent with the purposes of this act shall be declared invalid, and the prevailing plaintiff, other than the commissioner, an officer, or a member of a department, board or agency established by this act, shall be awarded cost of suit and reasonable attorney's fees.

25405. (a) Any quasi-judiciary hearing required by law 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, except as provided in this act or in regulations promulgated by the commissioner.

(b) The hearing shall be conducted by a hearing officer assigned by the commissioner who shall rule on the admission and the exclusion of evidence and may exercise all other powers relating to the conduct of the hearing.

#### Article 2. Insurance and Practice Outside the Health Security System

25415. (a) Any person providing or offering health care or insurance to any individual for a fee or other consideration that covers benefits available under the health security system shall inform these individuals, including prospective customers, in writing of the benefits for which they may be eligible under the health security system.

(b) The commissioner may establish a uniform notice, specifying both content and print size, to be included in any place of business, advertisement, policy of insurance, or offer to insure, as described in subdivision (a). The notice shall be limited to an advisement of rights under this act and the name and phone number of a person or office that can provide further information.

(c) Failure to provide the notice required by this section shall constitute an unfair business practice, entitling the individual to rescission, restitution, damages, and other remedies as provided by law and result in other action by the commissioner as authorized by law.

25420. Any health facility, clinic, or professional provider may elect to participate in the health security system, unless excluded by the commissioner.

25421. (a) Except as provided in Section 25138, a participating health facility, clinic, or professional provider may not charge any person, including individuals not eligible for benefits under this act, for services or procedures that are covered benefits under this act, other than for a copayment as permitted by this act.

(b) Except as provided in Article 4 (commencing with Section 25180) of Chapter 7, a participating health facility, clinic, or professional provider may provide to any person services or procedures that are not covered benefits under this act.

(1) A provider may require a patient to pay for services or procedures that the commissioner has determined are not covered by this act. Fees or reimbursement for such service or procedure is a matter between the provider and the patient. The health security system is not liable for these charges and shall not be billed.

(2) No provider shall require a patient to pay for or obtain a service not covered by this act as a condition of obtaining covered services.

(3) The commissioner may monitor the provision, frequency, and cost of services under this subdivision to determine their efficacy and possible inclusion as covered benefits, and to safeguard against abuse of the health security system.

#### Article 3. Coordination with Other Laws

##### 25520. Exemption from state and federal antitrust laws.

(a) Actions taken by or on behalf of the commissioner, or by any person as authorized by this act, shall not be considered a violation of California antitrust laws, including, but not limited to, Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code.

(b) It is the intent of the people to ensure that all Californians receive high-quality health care coverage in the most efficient and cost-effective manner possible.

(1) In furtherance of this intent, the people find and declare that it is in the public interest to enhance the ability of professional providers, health facilities, and clinics to form bargaining units for the purpose of contracting for the delivery of health care services, and that it is in the public interest for the health security system to contract with vendors, professional providers, health facilities and clinics to further the purposes of this act.

(2) The people further find and declare that the existing marketplace for health care services, relying on contracts between individual providers, both institutional and professional, and individual insurers and purchasers, has not proven effective, and has been unable to provide quality and efficient health care to all Californians.

(3) The people further find and declare that the efficient operation of the health security system, including its salient purpose of providing universal, comprehensive, accessible, portable, and publicly administered health care, providing the greatest freedom of choice to the health care consumer, requires the displacement of competition among providers, insurers, and purchasers of health care services.

(4) The California Legislature has previously demonstrated a similar intent and public purpose in Section 16770 of the Business and Professions Code, Sections 1342.6 and 1797.6 of the Health and Safety Code, Section 10133.6 of the Insurance Code, and Section 14087.26 of the Welfare and Institutions Code.

(5) It is the intent of the people, therefore, that the formation of groups and combinations of providers and health facilities and the concentration of purchasing power and regulatory authority in the health security system, be exempt from federal antitrust restraints.

(c) The people find and declare all of the following:

(1) There is a compelling state public interest in each action undertaken by or on behalf of the commissioner, and every other state and local agency, board,

council, and officer acting under and in furtherance of this act, including, but not limited to, those actions otherwise considered in restraint of trade.

(2) This act prescribes and exercises the degree of state direction and supervision over health care services as shall provide for state action immunity under federal antitrust laws for activities undertaken by local governmental entities in carrying out their prescribed functions under this act.

(d) This section does not change existing antitrust law as it relates to any agreement or arrangement to exclude from any of the above-described groups or combinations, any person who is lawfully qualified to perform the services to be performed by the members of the group or combination, where the ground for the exclusion is failure to possess the same license or certification as is possessed by the members of the group or combination.

25525. Compliance with federal health care reform legislation.

(a) The commissioner shall determine which provisions of this act, and which actions taken pursuant to this act, must be modified to achieve compliance with requirements for state health plans as specified by federal laws or regulations including those enacted after submission of this ballot initiative, or other federal laws and regulations.

(1) If any statutory provision of this act must be modified to achieve compliance with federal health care reform legislation, the commissioner shall seek appropriate amendment by the Legislature, preserving the goals of this act, including, but not limited to, providing universal and comprehensive coverage, cost control, fiscal soundness, and progressive financing.

(2) The commissioner shall construe or modify any regulation promulgated under this act as necessary to achieve compliance with federal health care reform legislation.

(b) Provisions of federal laws and regulations covered by this section include, but are not limited to, certifying health plans, financing and financial solvency, cost control, protection for health care providers and enrollees, health benefits, enrollment, and provider reimbursement.

25530. Federal Waivers.

(a) The commissioner shall seek all appropriate federal waivers, exemptions, agreements or legislation that shall allow all federal payments for medical, mental health and long-term care made in this state to be paid directly to the commissioner for the purposes of the health security system, and for the assumption, by the health security system, of the responsibility for all benefits previously paid for by the federal government.

(b) The commissioner shall, in all cases, seek to maximize federal contributions and payments for medical, mental health, and long-term care services provided in this state, and, in obtaining the waivers, exemptions, agreements, or legislation required by subdivision (a), the commissioner shall seek to ensure that the contributions of the federal government for medical, mental health, and long-term care services in California shall not decrease in relation to other states as a result of the waivers, exemptions, agreements, or legislation.

25535. Construction.

This act shall be construed as necessary to comply with federal health care legislation, consistent with the intent of the act to establish a single-payer for health care with freedom of choice of professional provider and a single standard of care for all Californians eligible for particular services under the health security system.

SECTION 3. Section 13 is hereby added to Article XIII B of the California Constitution to read as follows:

SEC. 13. (a) "Appropriations subject to limitation" for each entity of government do not include appropriations for purposes of the California Health Security Act.

(b) "Appropriations subject to limitation" for each entity of government shall be lowered in any year by the amount excluded from limitation under subdivision (a), to the extent that amount was subject to limitation in the prior year.

SECTION 4. Section 20 is hereby added to Article XVI of the California Constitution to read as follows:

SEC. 20. (a) There is established a special fund in the State Treasury, to be called the Health Security Fund, for the purpose of implementing the California Health Security Act.

(b) All moneys collected, received, and transferred pursuant to the California Health Security Act shall be transmitted to the State Treasury to be deposited to the credit of the Health Security Fund for the purpose of financing the health security system.

(c) The money in the Health Security Fund shall not be considered state revenues or state money or proceeds of taxes for purposes of Sections 3 and 8 of this article.

SECTION 5. Unless expressly provided for in this act, the provisions of Part 2 (commencing with Section 10110) of Division 2 of the Insurance Code, shall not be applicable to this act.

SECTION 6. Welfare and Institutions Code Sections 5750, 10720, 10721, 10722, 10723, and 10724 are hereby added to read as follows:

5750. Administrative duties; standards; rules and regulations.

(a) The California State Health Commissioner shall administer this part. Notwithstanding any other provision of law, standards and regulations for mental health services shall be adopted in the manner set out in Chapter 4 (commencing with Section 25010) of Division 13 (California Health Security Act) for the adoption of standards and regulations for other benefits provided under this act consistent with Sections 5751 and 5751.1.

(b) Notwithstanding any other provision of law, the duties, purposes, responsibilities, functions and jurisdiction of the Citizen Advisory Council and the California Conference of Local Mental Health Directors under this part are transferred to the Health Care Policy Advisory Board as defined in subdivision (b) of Section 25004, unless the California State Health Commissioner determines otherwise by regulation.

(c) The transfer of the purposes, responsibilities, functions, property, officers, and employees of the Department of Mental Health to the California State Health Commissioner shall occur as provided in Sections 10720, 10721, and 10722, as added by this act.

(d) All regulations heretofore adopted by the Director of Mental Health which relate to the Director of Mental Health's duties, purposes, responsibilities, functions, and jurisdiction as well as payment, accounting, auditing, and collection of funds under this part, and that are in effect on the date of passage of this act, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the California State Health Commissioner.

10720. Duties of the California State Health Commissioner. The California State Health Commissioner shall administer the chapters and part referred to in Section 10721, as well as any other law in this division pertaining to the administration of health care services and medical assistance. As used in the chapters and parts referred to in Section 10721, the term "directors" and "department" mean the California State Health Commissioner.

10721. Transfer of functions; effective date; impairment of contracts.

(a) The California State Health Commissioner succeeds to and is vested with the duties, purposes, responsibilities, functions, and jurisdiction exercised by the State Department of Health Services pursuant to Chapter 6.5 (commencing with Section 13900), Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), Chapter 8.5 (commencing with Section 14500), Chapter 8.7 (commencing with Section 14520), Chapter 8.8 (commencing with Section 14600), Chapter 9 (commencing with Section 15000), Chapter 9.5 (commencing with Section 15300), Chapter 11 (commencing with Section 15600), and Chapter 12 (commencing with Section 15710), of Part 3 and Part 4 (commencing with Section 16000), Part 4.5 (commencing with Section 16700), Part 4.6 (commencing with Section 16800), Part 4.7 (commencing with Section 16900), Part 5 (commencing with Section 17000), Part 5.5 (commencing with Section 17700) and Part 6 (commencing with Section 18000) of this division the date immediately prior to the date this section becomes effective.

(b) Functions transferred pursuant to this section include the management and administration of the Health Care Deposit Fund and the audit and recovery of amounts due as the result of payments made under the California Medical Assistance Program (Medi-Cal).

(c) Transfer to the California State Health Commissioner of the above duties, purposes, responsibilities, functions, and jurisdiction shall not impair any contract between the State Department of Health Services and any third party and the transfer shall neither create nor vest any right or obligation in either party. In no case shall the substitution of the California State Health Commissioner for the State Department of Health Services be considered a breach of contract or failure of performance, nor shall it disturb the legal relationship of the two parties.

10722. Transfer of property. The California State Health Commissioner shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land and other property, real or personal held for the benefit or use of the Director of Health Services in the performance of his or her duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Health Services for the purposes of carrying out the chapters and parts referred to in Section 10721.

10723. Transfer of officers and employees. All officers and employees of the State Department of Health Services who on the effective date of this act are serving in the state civil service, other than temporary employees, and engaged in the performance of a function vested in the California State Health Commissioner by Section 10721 shall be transferred to the California State Health Commissioner. The status, positions, and rights of those individuals shall not be affected by the transfer and shall be retained by them as officers and employees of the California State Health Commissioner, pursuant to the State Civil Service Act except as to positions exempt from civil service.

10724. Regulations; continued effectiveness; readoption, amendment or repeal. All regulations heretofore adopted by the Director of Health Services that relate to payment, accounting, auditing, and collections functions vested in the State Department of Health Services, or by any predecessor department that relate to health care services or medical assistance functions vested in the State Department of Health Services, and that are in effect immediately preceding the effective date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the California State Health Commissioner.

SECTION 7. Health and Safety Code Sections 443.20, 446, and 446.35 are added, to read as follows:

443.20. The California Health Policy and Data Advisory Commission is abolished. The California State Health Commissioner succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the California Health Policy and Data Advisory Commission, including, but not limited to, those functions and responsibilities performed pursuant to this division.

446. The Office of Statewide Health Planning and Development is abolished. The California State Health Commissioner succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the Office of Statewide Health Planning and Development, including, but not limited to, those functions and responsibilities performed pursuant to this division.

446.35. All regulations heretofore adopted by the Office of Statewide Health Planning and Development and that are in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the California State Health Commissioner.

SECTION 8. Section 30123.5 and Part 14.5 of Division 2, commencing with Section 33000, are hereby added to the Revenue and Taxation Code to read as follows:

30123.5. Health Security System Cigarette and Tobacco Products Surtax.

(a) In addition to the tax imposed upon the distribution of cigarettes by this

chapter, there shall be imposed on every distributor a tax upon the distribution of cigarettes at the rate of 50 mills (\$.05) for each cigarette distributed.

(b) There shall be imposed on every distributor of tobacco products based on the wholesale cost of these products, at a tax rate, as determined annually by the State Board of Equalization, which is equivalent to the combined rate of tax imposed on cigarettes by subdivision (a).

(c) The rate specified in subdivisions (a) and (b) shall be reduced by an amount equal to any tax imposed on like cigarette and tobacco products pursuant to federal health security legislation, to the extent that the federal tax revenues are contributed to the Health Security Fund.

(d) The revenues generated pursuant to this section shall be deposited in the Health Security Fund.

#### PART 14.5. HEALTH SECURITY FUND

##### 33000. Definitions.

The definitions contained in this section shall govern the construction of this part, unless the context requires otherwise.

(a) "Act" means the California Health Security Act (Division 13 (commencing with Section 25000) of the Welfare and Institutions Code).

(b) "Base year" means the twelve months prior to the passage of the California Health Security Act.

(c) "Commissioner" or "Health Commissioner" means the California State Health Commissioner.

(d) "Employee" means a resident of California who works for an employer, is listed on the employer's payroll records, and is under the employer's control.

(e) "Employer" means any person, partnership, corporation, association, joint venture, or public or private entity employing for wages, salary, or other compensation, one or more employees at any one time to work in this state. "Employer" does not include self-employed persons with respect to self-employed earnings.

##### 33001. Employer Health Security System Payroll Tax.

(a) All employers shall pay a health security payroll tax commencing January 1 of the second year following passage of the California Health Security Act.

(b) (1) Not later than April 15 of the year following passage of the act, each employer shall report to the Health Commissioner, by means and formulae determined by the commissioner, the number of employees and the amount paid for employee health insurance and benefits, both in absolute dollars and as a percentage of overall payroll, for the base year.

(2) An employer without a base year payroll shall estimate the items in paragraph (1) for its first full year of operation after the base year and report them to the commissioner. Within 90 days of completing the first full year of doing business in the state, the employer shall file a corrected report with the commissioner. The first full year of doing business in the state shall serve as the employer's base year for the purposes of this section.

(3) In addition to any penalties provided by law, an employer who fails to file the report required by this subdivision, or misstates any material fact, shall be assessed the maximum rate permitted under this section or Section 33002, plus an additional one percent tax on payroll, until a valid report is filed.

(c) Except as provided in Section 33002, the payroll tax rate shall be:

(1) In the case of employers with fewer than 10 employees, 4.4 percent of payroll.

(2) In the case of employers with 10 or more but fewer than 25 employees, 6.0 percent of payroll.

(3) In the case of employers with 25 or more but fewer than 50 employees, 7.0 percent of payroll.

(4) In the case of employers with 50 or more employees, 8.9 percent of payroll.

(5) In the event that federal law requires a different payroll tax rate, that rate shall apply.

(d) The payroll tax rate specified in this section shall be inclusive of, but not in addition to, any payroll tax mandated by federal health care reform legislation.

(e) For purposes of determining the tax rates under subdivision (c) both of the following shall apply:

(1) The number of employees means the number of full-time equivalent employees.

(2) The number of employees shall be the greater of the number in the current year or the base year.

(f) Nothing in the California Health Security Act shall be construed to prevent an employer from providing health benefits in excess of those available under the health security system.

(g) The commissioner may seek assistance from any appropriate state agency in obtaining the data necessary to carry out this section.

(h) The earnings of a self-employed individual resulting from self-employment shall not be considered payroll for the purposes of this section.

##### 33002. Phase-In of Employer Health Security Payroll Tax.

(a) For the first year in which benefits are provided under this act, the payroll tax rate shall be the amount specified in Section 33001, adjusted as follows:

(1) By adding, in the case of an employer whose base-year health insurance and benefit payments, expressed as a percentage of payroll, was greater than the rate specified in subdivision (c) of Section 33001, two-thirds of the difference between these two rates.

(2) By subtracting, in the case of an employer whose base-year health insurance and benefit payments expressed as a percentage of payroll, was less than the rate specified in subdivision (c) of Section 33001, two-thirds of the difference between these two rates.

(b) For the second year in which benefits are provided under this act, the payroll tax rates shall equal the amount calculated in subdivision (a), replacing the fraction two-thirds in paragraphs (1) and (2) with the fraction one-third.

##### 33003. Credit Against Employer Health Security Payroll Tax.

(a) With respect to each employee affected, an employer who, on the date of

passage of this act, was under a contractual or legal obligation to provide the employee with health care benefits, that are covered benefits under this act, or to pay for such benefits through a policy of insurance or otherwise, shall receive a credit against its payroll tax obligation in a tax period equal to the amount it pays during that period for the benefits or insurance pursuant to the contract or legal obligation.

(1) Entitlement to the credit shall lapse upon the expiration of the contractual or legal obligation. No credit may be claimed for any obligation arising on or after the effective date of this act.

(2) This subdivision shall not apply to obligations subject to federal preemption as described in Article 3 (commencing with Section 25136) of Chapter 6 of Division 13 of the Welfare and Institutions Code.

(b) (1) In the event that the amount of a credit provided by this section exceeds the employer's payroll tax obligation for any affected employee, the excess shall be credited against the employee's tax obligation imposed by Section 33004.

(2) In the case of an employer exempt from the payroll tax obligation pursuant to Section 25136 of the Welfare and Institutions Code, the amount of credit to be applied to the employee's tax obligation shall be determined in the same manner as in the case of a non-exempt employer.

(c) No credit may be carried over from year to year or transferred among employees.

#### 33004. Individual Health Security Income Tax.

(a) All heads of households and persons subject to California income tax shall pay a health security income tax commencing January 1 of the second year following passage of the California Health Security Act.

(b) The tax rate shall be 2.5 percent of taxable income as defined in Section 17073, but not less than fifty dollars (\$50) per household per year.

(c) In the case of households where no member files a California income tax return, the Health Commissioner shall establish mechanisms or coordinate with other state agencies to establish mechanisms, for the collection of the minimum tax, including, but not limited to, deduction of the tax from transfer payments or entitlements at their source.

#### 33005. Credit Against Individual Health Security Income Tax.

(a) Individuals shall receive a credit against their individual health security income tax obligation for either or both of the following:

(1) Any credit arising under subdivision (b) of Section 33003.

(2) Any premium or tax paid by the individual required by federal health care reform legislation, to the extent that the payments are mandatory and no election is allowed for a single-payer system.

(b) In no case shall the amount of a credit provided under this section exceed the individual's health security income tax obligation in any year. No credit may be carried over from year to year.

33006. (a) Nothing in the California Health Security Act shall be construed to interfere with an employer choosing to pay, in part or in full, the individual health security income tax for an employee.

(b) If an employer chooses to pay the health security income tax on behalf of an employee, the payments shall not substitute for any obligation of the employer pursuant to Section 33000.

#### 33007. Individual Health Security Income Surtax.

(a) Persons filing a California income tax return shall pay a health security income surtax of 2.5 percent on net taxable income in excess of two hundred fifty thousand dollars (\$250,000).

(b) Notwithstanding subdivision (a), married couples filing a California joint income tax return shall pay a health security income surtax of 2.5 percent on net taxable income in excess of five hundred thousand dollars (\$500,000).

(c) The surtax described in this subdivision shall be in addition to the individual health security income tax imposed by Section 33004.

#### SECTION 9. Legislative Amendment.

(a) The provisions of this act shall not be amended by the Legislature except to further its purposes by a statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the electorate.

(b) The two-thirds vote requirement of subdivision (a) shall not apply to any provision of this act that meets any of the following requirements:

(1) Specifically mentions and authorizes action by the Legislature, in which case a majority of the membership in each house shall be sufficient for amendment.

(2) Specifically states a different method for amendment, in which case that method shall control.

(3) Must be amended to achieve compliance with federal health care reform legislation, pursuant to Sections 25525 and 25530 of the Welfare and Institutions Code, in which case a majority of the membership in each house shall be sufficient for amendment.

#### SECTION 10. Severability.

If any provisions of this act or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable. Towards this end, it is the intent of the people that any invalid section, subdivision, paragraph, sentence, or clause shall be severed from the remainder of the act to preserve its remaining provisions.

SECTION 11. Repeal of Welfare and Institutions Code Sections 5750, 10720, 10721, 10722, 10723, 10724, 10725, and 10726, and Health and Safety Code Sections 443.20, 443.21, 446, 446.1, 446.2, 446.3, and 446.35.

Welfare and Institutions Code Section 5750 is hereby repealed.

5750.—(a) The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto. However, these standards, rules, and regulations

shall be adopted only after consultation with the California Council on Mental Health and the California Conference of Local Mental Health Directors. Adoption of these standards, rules, and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session except for regulations pertaining to psychiatric health facilities. For regulations pertaining to psychiatric health facilities, the vote by the conference, following consultation, shall be only advisory to the State Department of Mental Health.

(b) If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit these standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the California Council on Mental Health, and a member designated by the State Advisory Health Council.

(c) (1) From July 1, 1991, to June 30, 1993, inclusive, the conference shall not approve regulations of the State Department of Mental Health. The impact on this subdivision of regulatory timing shall be included in the department's report to the Legislature on September 30, 1992.

(2) The department shall continue during that period to involve the conference in the development of all regulations which affect local mental health programs, prior to the promulgation of those regulations pursuant to the Administrative Procedure Act.

Welfare and Institutions Code Section 10720 is hereby repealed.

10720.—As used in this chapter, "department" means the State Department of Health Services, and "director" means the State Director of Health Services.

Welfare and Institutions Code Section 10721 is hereby repealed.

10721.—The director shall administer Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of Part 3 of this division and any other law pertaining to the administration of health care services and medical assistance. He shall perform such other duties as may be prescribed by law and shall observe and report to the Secretary of Health and Welfare and the Governor on the condition of health care services and medical assistance throughout the state.

Welfare and Institutions Code Section 10722 is hereby repealed.

10722.—The State Department of Health Services succeeds to and is vested with the duties, purposes, responsibilities, and jurisdiction exercised by the State Department of Health or the State Department of Benefit Payments pursuant to Chapter 7 (commencing with Section 14000), Chapter 8 (commencing with Section 14200), Chapter 8.5 (commencing with Section 14500), and Chapter 8.7 (commencing with Section 14520) of this part on the date immediately prior to the date this section becomes operative. Functions transferred pursuant to this section include the management and administration of the Health Care Deposit Fund and the audit and recovery of amounts due as the result of payments made under the California Medical Assistance Program (Medi-Cal).

Transfer to the State Department of Health Services of the above functions shall not impair any contract between the State Department of Health or the State Department of Benefit Payments and any third party and such transfer shall neither create nor vest any right or obligation in either party. In no case shall the substitution of the State Department of Health Services for the State Department of Health or the State Department of Benefit Payments be considered a breach of contract or failure of performance, nor shall it disturb the legal relationships of the parties.

Welfare and Institutions Code Section 10723 is hereby repealed.

10723.—The State Department of Health Services shall have possession and control of all records, papers, offices, equipment, supplies, moneys, funds, appropriations, land, and other property real or personal held for the benefit or use of the Director of Health or the Director of Benefit Payments in the performance of his duties, powers, purposes, responsibilities, and jurisdiction that are vested in the State Department of Health Services by Section 10722.

Welfare and Institutions Code Section 10724 is hereby repealed.

10724.—All officers and employees of the Director of Health and the Director of Benefit Payments who on the operative date of this section are serving in the state civil service, other than as temporary employees, and engaged in the performance of a function vested in the State Department of Health Services by Section 10722 shall be transferred to the State Department of Health Services. The status, positions, and rights of such persons shall not be affected by the transfer and shall be retained by them as officers and employees of the State Department of Health Services pursuant to the State Civil Service Act, except as to positions exempt from civil service.

Welfare and Institutions Code Section 10725 is hereby repealed.

10725.—The director may adopt regulations, orders, or standards of general application to implement, interpret, or make specific the law enforced by the department, and such regulations, orders, and standards shall be adopted, amended, or repealed by the director only in accordance with the provisions of Chapter 4.5 (commencing with Section 11371), Part 1, Division 3, Title 2 of the Government Code, provided that regulations relating to services need not be printed in the California Administrative Code or California Administrative Register if they are included in the publications of the department. Such authority also may be exercised by the director's designee.

In adopting regulations the director shall strive for clarity of language which may be readily understood by those administering services or subject to such regulations.

The rules of the department need not specify or include the detail of forms, reports or records, but shall include the essential authority by which any person, agency, organization, association or institution subject to the supervision or

investigation of the department is required to use, submit or maintain such forms, reports or records:

Welfare and Institutions Code Section 10726 is hereby repealed.

10726. All regulations heretofore adopted by the Director of the State Department of Benefit Payments which relate to payment, accounting, auditing and collection functions vested in the State Department of Health Services, or by the State Department of Health or any predecessor department which relate to health care services or medical assistance functions vested in the State Department of Health Services, and which are in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended or repealed by the State Director of Health Services.

Health and Safety Code Section 443.20 is hereby repealed.

443.20. There is hereby created the California Health Policy and Data Advisory Commission to be composed of 11 members:

The Governor shall appoint seven members, one of whom shall be a hospital chief executive officer, one of whom shall be a long-term care facility chief executive officer, one of whom shall be a representative of the health insurance industry involved in establishing premiums or underwriting, one of whom shall be a representative of a group prepayment health care service plan, one of whom shall be a representative of a business coalition concerned with health, and two of whom shall be general members. The Speaker of the Assembly shall appoint two members, one of whom shall be a physician and surgeon and one of whom shall be a general member. The Senate Rules Committee shall appoint two members, one of whom shall be a representative of a labor coalition concerned with health, and one of whom shall be a general member.

The chairperson shall be designated by the Governor. The Governor shall designate four original appointments which will be for four-year terms. The Governor shall designate three original appointments which shall be for two-year terms. The Speaker of the Assembly shall designate one original appointment which will be for two years and one original appointment which will be for four years. The Senate Rules Committee shall designate one original appointment which will be for two years and one original appointment which will be for four years. Thereafter, all appointments shall be for four-year terms.

In addition to the 11 original appointees to the commission, the chairperson of the Advisory Health Council on December 31, 1985, and the chairperson of the California Health Facilities Commission on December 31, 1985, shall also serve four-year terms. During their terms when the commission shall have 10 members, they shall be full voting representatives.

Health and Safety Code Section 443.21 is hereby repealed.

443.21. As used in this part, the following terms mean:

(a) "Commission" means the California Health Policy and Data Advisory Commission.

(b) "Health facility" or "health facilities" means all health facilities required to

be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2:

(c) "Hospital" means all health facilities except skilled nursing, intermediate care, and congregate living health facilities.

(d) "Office" means the Office of Statewide Health Planning and Development.

(e) "Risk-adjusted outcomes" means the clinical outcomes of patients grouped by diagnoses or procedures which have been adjusted for demographic and clinical factors.

Health and Safety Code Section 446 is hereby repealed.

446. There is in the state government, in the Health and Welfare Agency, an Office of Statewide Health Planning and Development:

Health and Safety Code Section 446.1 is hereby repealed.

446.1. The Office of Statewide Health Planning and Development is under the control of an executive officer known as the Director of Statewide Health Planning and Development, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor. He shall receive the annual salary provided by Article 1 (commencing with Section 11550) of Chapter 6 of Part 1 of Division 3 of Title 2 of the Government Code.

Health and Safety Code Section 446.2 is hereby repealed.

446.2. The Director of Statewide Health Planning and Development shall have the powers of a head of the department pursuant to Chapter 2 (commencing with Section 11150) of Part 1 of Division 3 of Title 2 of the Government Code.

Health and Safety Code Section 446.3 is hereby repealed.

446.3. The Office of Statewide Health Planning and Development succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction of the State Department of Health relating to health planning and research development. The office shall assume the functions and responsibilities of the Facilities Construction Unit of the former State Department of Health, including, but not limited to, those functions and responsibilities performed pursuant to the following provisions of law:

Article 5.5 (commencing with Section 380) of Chapter 2 of Part 1 of Division 1; Article 18 (commencing with Section 429.70) and Article 19 (commencing with Section 429.94) of Chapter 2.5 of Part 1 of Division 1; Chapter 3 (commencing with Section 430) and Chapter 4 (commencing with Section 436) of Part 1 of Division 1; Part 1.5 (commencing with Section 437) of Division 1; Section 1260; Chapter 10 (commencing with Section 1770) of Division 2; Section 13113; and Division 12.5 (commencing with Section 15000).

Health and Safety Code Section 446.35 is hereby repealed.

446.35. All regulations heretofore adopted by the State Department of Health which relate to functions vested in the Office of Statewide Health Planning and Development and which are in effect immediately preceding the operative date of this section, shall remain in effect and shall be fully enforceable unless and until readopted, amended, or repealed by the Office of Statewide Health Planning and Development.

## Proposition 187: Text of Proposed Law

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

This initiative measure adds sections to various codes; therefore, new provisions proposed to be added are printed in *italic type* to indicate that they are new.

### PROPOSED LAW

#### SECTION 1. Findings and Declaration.

The People of California find and declare as follows:

That they have suffered and are suffering economic hardship caused by the presence of illegal aliens in this state.

That they have suffered and are suffering personal injury and damage caused by the criminal conduct of illegal aliens in this state.

That they have a right to the protection of their government from any person or persons entering this country unlawfully.

Therefore, the People of California declare their intention to provide for cooperation between their agencies of state and local government with the federal government, and to establish a system of required notification by and between such agencies to prevent illegal aliens in the United States from receiving benefits or public services in the State of California.

SECTION 2. Manufacture, Distribution or Sale of False Citizenship or Resident Alien Documents: Crime and Punishment.

Section 113 is added to the Penal Code, to read:

113. Any person who manufactures, distributes or sells false documents to conceal the true citizenship or resident alien status of another person is guilty of a felony, and shall be punished by imprisonment in the state prison for five years or by a fine of seventy-five thousand dollars (\$75,000).

SECTION 3. Use of False Citizenship or Resident Alien Documents: Crime and Punishment.

Section 114 is added to the Penal Code, to read:

114. Any person who uses false documents to conceal his or her true citizenship or resident alien status is guilty of a felony, and shall be punished by imprisonment in the state prison for five years or by a fine of twenty-five thousand dollars (\$25,000).

SECTION 4. Law Enforcement Cooperation with INS.

Section 834b is added to the Penal Code, to read:

834b. (a) Every law enforcement agency in California shall fully cooperate with the United States Immigration and Naturalization Service regarding any person who is arrested if he or she is suspected of being present in the United States in violation of federal immigration laws.

(b) With respect to any such person who is arrested, and suspected of being present in the United States in violation of federal immigration laws, every law enforcement agency shall do the following:

(1) Attempt to verify the legal status of such person as a citizen of the United States, an alien lawfully admitted as a permanent resident, an alien lawfully admitted for a temporary period of time or as an alien who is present in the United States in violation of immigration laws. The verification process may include, but shall not be limited to, questioning the person regarding his or her date and place of birth, and entry into the United States, and demanding documentation to indicate his or her legal status.

(2) Notify the person of his or her apparent status as an alien who is present in the United States in violation of federal immigration laws and inform him or her that, apart from any criminal justice proceedings, he or she must either obtain legal status or leave the United States.

(3) Notify the Attorney General of California and the United States Immigration and Naturalization Service of the apparent illegal status and provide any additional information that may be requested by any other public entity.

(c) Any legislative, administrative, or other action by a city, county, or other legally authorized local governmental entity with jurisdictional boundaries, or by a law enforcement agency, to prevent or limit the cooperation required by subdivision (a) is expressly prohibited.

SECTION 5. Exclusion of Illegal Aliens from Public Social Services.

Section 10001.5 is added to the Welfare and Institutions Code, to read:

10001.5. (a) In order to carry out the intention of the People of California that only citizens of the United States and aliens lawfully admitted to the United States may receive the benefits of public social services and to ensure that all persons employed in the providing of those services shall diligently protect public funds from misuse, the provisions of this section are adopted.

(b) A person shall not receive any public social services to which he or she may be otherwise entitled until the legal status of that person has been verified as one of the following:

(1) A citizen of the United States.

(2) An alien lawfully admitted as a permanent resident.

(3) An alien lawfully admitted for a temporary period of time.

(c) If any public entity in this state to whom a person has applied for public social services determines or reasonably suspects, based upon the information provided to it, that the person is an alien in the United States in violation of federal law, the following procedures shall be followed by the public entity:

(1) The entity shall not provide the person with benefits or services.

(2) The entity shall, in writing, notify the person of his or her apparent illegal

immigration status, and that the person must either obtain legal status or leave the United States.

(3) The entity shall also notify the State Director of Social Services, the Attorney General of California, and the United States Immigration and Naturalization Service of the apparent illegal status, and shall provide any additional information that may be requested by any other public entity.

#### SECTION 6. Exclusion of Illegal Aliens from Publicly Funded Health Care.

Chapter 1.3 (commencing with Section 130) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

##### CHAPTER 1.3. PUBLICLY-FUNDED HEALTH CARE SERVICES

130. (a) In order to carry out the intention of the People of California that, excepting emergency medical care as required by federal law, only citizens of the United States and aliens lawfully admitted to the United States may receive the benefits of publicly-funded health care, and to ensure that all persons employed in the providing of those services shall diligently protect public funds from misuse, the provisions of this section are adopted.

(b) A person shall not receive any health care services from a publicly-funded health care facility, to which he or she is otherwise entitled until the legal status of that person has been verified as one of the following:

- (1) A citizen of the United States.
- (2) An alien lawfully admitted as a permanent resident.
- (3) An alien lawfully admitted for a temporary period of time.

(c) If any publicly-funded health care facility in this state from whom a person seeks health care services, other than emergency medical care as required by federal law, determines or reasonably suspects, based upon the information provided to it, that the person is an alien in the United States in violation of federal law, the following procedures shall be followed by the facility:

(1) The facility shall not provide the person with services.

(2) The facility shall, in writing, notify the person of his or her apparent illegal immigration status, and that the person must either obtain legal status or leave the United States.

(3) The facility shall also notify the State Director of Health Services, the Attorney General of California, and the United States Immigration and Naturalization Service of the apparent illegal status, and shall provide any additional information that may be requested by any other public entity.

(d) For purposes of this section "publicly-funded health care facility" shall be defined as specified in Sections 1200 and 1250 of this code as of January 1, 1993.

#### SECTION 7. Exclusion of Illegal Aliens from Public Elementary and Secondary Schools.

Section 48215 is added to the Education Code, to read:

48215. (a) No public elementary or secondary school shall admit, or permit the attendance of, any child who is not a citizen of the United States, an alien lawfully admitted as a permanent resident, or a person who is otherwise authorized under federal law to be present in the United States.

(b) Commencing January 1, 1995, each school district shall verify the legal status of each child enrolling in the school district for the first time in order to ensure the enrollment or attendance only of citizens, aliens lawfully admitted as permanent residents, or persons who are otherwise authorized to be present in the United States.

(c) By January 1, 1996, each school district shall have verified the legal status of each child already enrolled and in attendance in the school district in order to ensure the enrollment or attendance only of citizens, aliens lawfully admitted as permanent residents, or persons who are otherwise authorized under federal law to be present in the United States.

(d) By January 1, 1996, each school district shall also have verified the legal status of each parent or guardian of each child referred to in subdivisions (b) and (c), to determine whether such parent or guardian is one of the following:

- (1) A citizen of the United States.
- (2) An alien lawfully admitted as a permanent resident.

(3) An alien admitted lawfully for a temporary period of time.

(e) Each school district shall provide information to the State Superintendent of Public Instruction, the Attorney General of California, and the United States Immigration and Naturalization Service regarding any enrollee or pupil, or parent or guardian, attending a public elementary or secondary school in the school district determined or reasonably suspected to be in violation of federal immigration laws within forty-five days after becoming aware of an apparent violation. The notice shall also be provided to the parent or legal guardian of the enrollee or pupil, and shall state that an existing pupil may not continue to attend the school after ninety calendar days from the date of the notice, unless legal status is established.

(f) For each child who cannot establish legal status in the United States, each school district shall continue to provide education for a period of ninety days from the date of the notice. Such ninety day period shall be utilized to accomplish an orderly transition to a school in the child's country of origin. Each school district shall fully cooperate in this transition effort to ensure that the educational needs of the child are best served for that period of time.

#### SECTION 8. Exclusion of Illegal Aliens from Public Postsecondary Educational Institutions.

Section 66010.8 is added to the Education Code, to read:

66010.8. (a) No public institution of postsecondary education shall admit, enroll, or permit the attendance of any person who is not a citizen of the United States, an alien lawfully admitted as a permanent resident in the United States, or a person who is otherwise authorized under federal law to be present in the United States.

(b) Commencing with the first term or semester that begins after January 1, 1995, and at the commencement of each term or semester thereafter, each public postsecondary educational institution shall verify the status of each person enrolled or in attendance at that institution in order to ensure the enrollment or attendance only of United States citizens, aliens lawfully admitted as permanent residents in the United States, and persons who are otherwise authorized under federal law to be present in the United States.

(c) No later than 45 days after the admissions officer of a public postsecondary educational institution becomes aware of the application, enrollment, or attendance of a person determined to be, or who is under reasonable suspicion of being, in the United States in violation of federal immigration laws, that officer shall provide that information to the State Superintendent of Public Instruction, the Attorney General of California, and the United States Immigration and Naturalization Service. The information shall also be provided to the applicant, enrollee, or person admitted.

#### SECTION 9. Attorney General Cooperation with the INS.

Section 53069.65 is added to the Government Code, to read:

53069.65. Whenever the state or a city, or a county, or any other legally authorized local governmental entity with jurisdictional boundaries reports the presence of a person who is suspected of being present in the United States in violation of federal immigration laws to the Attorney General of California, that report shall be transmitted to the United States Immigration and Naturalization Service. The Attorney General shall be responsible for maintaining on-going and accurate records of such reports, and shall provide any additional information that may be requested by any other government entity.

#### SECTION 10. Amendment and Severability.

The statutory provisions contained in this measure may not be amended by the Legislature except to further its purposes by statute passed in each house by rollcall vote entered in the journal, two-thirds of the membership concurring, or by a statute that becomes effective only when approved by the voters.

In the event that any portion of this act or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect any other provision or application of the act, which can be given effect without the invalid provision or application, and to that end the provisions of this act are severable.

## Proposition 188: Text of Proposed Law

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

This initiative measure amends, repeals, and adds sections to various codes; 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. The People of the State of California find and declare that:

(a) The current regulation of smoking in public in California is inadequate in that there are insufficient statewide standards for regulating smoking in restaurants, office buildings, and other public places.

(b) There is a wide variance in the local regulation of smoking. Some localities provide little or no protection to those who wish to avoid secondhand smoke in such places, while others overregulate to the extent that in at least one city a person may be fined for smoking on the sidewalk or in the street.

(c) There is a clear need for uniform statewide regulation of smoking in public to assure those interested in avoiding secondhand tobacco smoke have the same protections wherever they go in the state and that those who do smoke have fair notice of where smoking is prohibited.

(d) There must be stricter statewide controls to curb the illegal sale of tobacco products to minors, including the regulation of tobacco products vending machines. Further, the advertisement of tobacco products near schools must be restricted.

SEC. 2. To accomplish the goals set forth in Section 1, the People enact this measure to provide for the statewide regulation of smoking in restaurants, other

public places and the workplace, and for statewide restrictions on the marketing and distribution of tobacco products through the regulation of sales to minors, tobacco products vending machines, and billboard advertising near school grounds.

SEC. 3. This act shall be known and may be cited as the California Uniform Tobacco Control Act.

SEC. 4. Division 10 (commencing with Section 25800) is added to the Business and Professions Code, to read:

### DIVISION 10. REGULATION OF SMOKING

#### CHAPTER 1. GENERAL PROVISIONS

25800. For purposes of this division, the following definitions shall apply:

(a) "ASHRAE Standard 62-1989" means the standard approved by the American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. in 1989 as ASHRAE Standard 62-1989, "Ventilation for Acceptable Indoor Air Quality" and approved by the American National Standards Institute in 1991. The standard is also designated "ANSI/ASHRAE 62-1989."

(b) "Bar" means an area that is devoted to the service of alcoholic beverages for consumption on the premises and in which the serving of food, if any, is incidental to the consumption of alcoholic beverages. When a bar is located within a building in conjunction with another use, including, but not limited to, a restaurant, only the area used primarily for the consumption of alcoholic beverages shall constitute a bar. The dining area shall not constitute a bar, even though alcoholic beverages may be served therein.

(c) "Private office" means a room within a building in which no more than one person works that is enclosed by floor to ceiling walls and an operable door.

(d) "Public place" means any enclosed indoor area open to the general public, including, but not limited to, a theater, educational facility, health facility, retail services establishment, retail food production and market establishment, gymnasium, health spa, library, museum, and gallery. "Public place" does not include a workplace, restaurant, or bar.

(e) "Restaurant" means any coffeeshop, cafeteria, short-order cafe, luncheonette, diner, sandwich shop, soda fountain, and any other eating establishment which gives, sells, or offers for sale food to the general public for consumption on the premises. "Restaurant" does not include a "bar" as defined in this section.

(f) "Workplace" means any enclosed indoor area in which one or more individuals are employed on a full-time basis and to which the general public does not have access, except by specific invitation. Notwithstanding the preceding sentence, "workplace" does not include a prison, jail or other correctional facility and does not include a work area in a private residence other than a licensed family day care home during its hours of operation and in those areas where children are present.

#### CHAPTER 2. RESTAURANTS

25806. Smoking is prohibited in any restaurant, except as otherwise provided in this chapter.

25808. (a) The prohibition of Section 25806 shall not apply to any restaurant to which both of the following apply:

(1) Smoking is confined to designated areas not exceeding 25 percent of the seating capacity.

(2) Ventilation is provided in accordance with the recommended ventilation rates specified for dining rooms and cafeterias in Table 2 of ASHRAE Standard 62-1989 or in accordance with the requirements of the indoor air quality procedure described in ASHRAE Standard 62-1989. If a restaurant elects to provide ventilation in accordance with this paragraph, the restaurant shall keep on the premises a written certification, provided at least once a year by the contractor who maintains the ventilation system, that the system meets the applicable provisions of ASHRAE Standard 62-1989.

(b) Any restaurant permitting smoking shall post a sign on the exterior of the building at each point of public entrance stating that smoking and non-smoking sections are available.

25810. The prohibition of Section 25806 shall not apply to rooms in restaurants being used for private functions.

25812. Nothing in this chapter shall be construed to prevent the owner of any restaurant from prohibiting smoking entirely on any premises under his or her control.

#### CHAPTER 3. WORKPLACES

25814. Smoking is prohibited in any workplace, except as otherwise provided in this chapter.

25816. (a) The prohibition of Section 25814 shall not apply to any workplace that is any of the following:

(1) Any private office or, with the consent of all occupants, any conference room if ventilation is provided to that office or room in accordance with the recommended ventilation rates specified for offices in Table 2 of ASHRAE Standard 62-1989 or in accordance with the requirements of the indoor air quality procedure described in ASHRAE Standard 62-1989.

(2) Any employee cafeteria where smoking is confined to a single area not exceeding 25 percent of the seating capacity of the cafeteria, and ventilation is provided in accordance with the recommended ventilation rates specified for dining rooms and cafeterias in Table 2 of ASHRAE Standard 62-1989 or in accordance with the requirements of the indoor air quality procedure described in ASHRAE Standard 62-1989.

(3) Designated smoking lounges if ventilation is provided in accordance with the recommended ventilation rates specified for smoking lounges in Table 2 of ASHRAE Standard 62-1989 or in accordance with the requirements of the indoor air quality procedure described in ASHRAE Standard 62-1989.

(b) If an employer elects to provide ventilation in accordance with subdivision (a), the employer shall keep on the premises a written certification, provided at least once a year by the contractor who maintains the ventilation system, that the system meets the applicable provisions of ASHRAE Standard 62-1989.

25818. Smoking is prohibited in any company vehicle unless all those present in the vehicle consent.

25820. Nothing in this chapter shall be construed to prevent an employer from prohibiting smoking entirely on any premises under his or her control.

#### CHAPTER 4. PUBLIC PLACES

25822. Smoking is prohibited in any public place, except as otherwise provided in this chapter.

25824. Smoking may be permitted in no more than 25 percent of the concourse area of any bowling alley and the lobby areas of any hotel, motel or other lodging facility.

25826. The prohibition of Section 25822 shall not apply to any of the following places:

(a) Hotel and motel rooms rented to guests, unless they are designated non-smoking rooms by management.

(b) Establishments devoted primarily to the retail sale of tobacco products or to the operations of a manufacturer of tobacco products.

(c) Hotel and motel conference or meeting rooms, and public and private assembly rooms, while these places are being used for private functions.

(d) Gaming clubs registered pursuant to Chapter 5 (commencing with Section 19800) of Division 8, facilities used to conduct bingo games pursuant to Section 326.5 of the Penal Code, racetracks, and private boxes and separate smoking lounges in indoor and outdoor sports arenas.

25828. Nothing in this chapter shall be construed to prevent the owner or lessee of any public place from prohibiting smoking entirely on any premises under his or her control.

#### CHAPTER 5. SIGNS

25836. Smoking and non-smoking areas designated pursuant to this division shall be clearly indicated by the posting of signs.

#### CHAPTER 6. VENDING MACHINES

25840. It is unlawful to sell tobacco products at retail through a vending machine unless the vending machine is located in one of the following areas:

(a) In an area of a factory, business, office, or other place that is not open to the general public.

(b) On any public premises, as defined in Section 23039, to which persons under the age of 21 years are denied access pursuant to Section 25665.

(c) On other premises to which persons under the age of 18 years are not permitted access.

(d) In any other place, but only if the machine is operated by the activation of an electronic switch by the licensee, or by an employee of the licensee, prior to each purchase.

25842. The person liable for a violation of Section 25840 is the person authorizing the installation or placement of the tobacco products vending machine upon premises he or she manages or otherwise controls and under circumstances in which he or she has knowledge, or otherwise should have grounds for knowledge, of the violation.

#### CHAPTER 7. BILLBOARDS

25844. No person shall advertise or cause to be advertised tobacco products on any outdoor billboard located within 500 feet of any public or private elementary school, junior high school, or high school. This prohibition shall not apply to advertisements erected or maintained at street level and affixed to business establishments selling tobacco products at retail.

#### CHAPTER 8. ENFORCEMENT

25850. The provisions of Chapter 3 shall be considered occupational safety and health standards under the California Occupational Safety and Health Act of 1973 as amended and shall be enforced as standards under that act.

25852. Except as provided in Section 25850, every person who smokes in violation of this division, every person in charge of a place where smoking is prohibited by this division who knowingly permits smoking in violation of this division, every person who fails to post a sign required by this division and every person who violates any other prohibition in this division, shall be guilty of an infraction punishable by a fine not to exceed one hundred dollars (\$100) for a first violation, by a fine not to exceed two hundred dollars (\$200) for a second violation within one year, or by a fine not to exceed five hundred dollars (\$500) for a third violation and for each subsequent violation within one year.

SEC. 5. Article 1 of Chapter 10.8 (commencing with Section 25940) of Division 20 of the Health and Safety Code is repealed.

#### Article 1. California Indoor Clean Air Act of 1976

25940. This chapter shall be known and may be cited as the California Indoor Clean Air Act of 1976.

25940.5. The Legislature finds and declares that tobacco smoke is a hazard to the health of the general public.

25941. Within indoor rooms, indoor chambers, or indoor places of public assembly in publicly owned buildings in which public business is conducted requiring or providing direct participation or observation by the general public there shall be a contiguous area of not less than 50 percent of the total area of such room, chamber or place designated and posted by signs of sufficient number and posted in such locations as to be readily seen by persons within such area; where the smoking of tobacco is prohibited while a public meeting is in progress. A public body, commission, agency, or other entity conducting a public meeting may waive the requirements of this section with respect to its own members, provided that the rights of nonsmoking members are not adversely affected.

25942. Every health facility, as defined in Section 1250, and clinic, as defined in Section 1200, shall comply with the following:

(a) Shall make every reasonable effort to assign patients to rooms according to the patient's individual nonsmoking or smoking preference.

(b) Shall designate and post by signs of sufficient number and posted in such locations as to be readily seen by persons within such area, a contiguous area of not less than 20 percent of every cafeteria or other dining area whose occupied capacity is 50 or more persons as a nonsmoking section.

(c) This section shall not prevent any health facility or clinic from banning smoking in any area which it may designate and post by sign or in all areas of the facility or clinic.

25943. Within every publicly owned building open to the general public for the primary purpose of exhibiting any motion picture, stage drama, music recital, or any other performance, with the exception of any indoor sporting event, signs shall be posted in sufficient number and in such locations as to be readily seen by persons within such area, which shall designate that the smoking of tobacco is prohibited in any area other than that commonly known as the lobby. Such prohibition shall not apply except during those times when the building is actually open to the public.

25944. Within every restaurant in a publicly owned building serving food or alcoholic beverages in rooms whose occupied capacity is 50 or more persons there shall be designated and posted by signs of sufficient number and posted in such locations as to be readily seen by persons within such area, a contiguous area of not less than 20 percent of the serving area where the smoking of tobacco is prohibited:

(a) This section shall not apply to banquet rooms in use for private functions.

(b) This section shall not apply to premises under lease as a restaurant for such time as the lessee of record on January 1, 1977, has a lease as the operator of the restaurant.

(c) As used in this section, "restaurant" means any place designated as a restaurant by Section 28522.

25945. Any person may apply for a writ of mandate to compel compliance by any public entity which has not complied with the requirements of this chapter for the designating or posting of nonsmoking areas or areas where the smoking of tobacco is prohibited. If judgment is given for the applicant, he may recover all reasonable costs of suit, including reasonable attorney fees, reasonableness to be determined by the court.

25946. The Legislature declares its intent not to preempt the field of regulation of the smoking of tobacco. A local governing body may ban completely the smoking of tobacco, or may regulate such smoking in any manner not inconsistent with this chapter or any other provision of state law.

25947. (a) Except as provided in subdivision (b), no person shall smoke any tobacco product in any retail food production and marketing establishment, as defined in Section 28802, during such hours as the establishment is open to the public.

(b) The provisions of subdivision (a) shall not apply to that portion of an establishment subject to Section 25944 nor to an area of an establishment set aside for employee smoking and not open to the public.

SEC. 6. Section 25949.6 of the Health and Safety Code is repealed.

25949.6. This article does not preempt any local ordinance on the same subject where a local ordinance is more restrictive to the benefit of the nonsmoker.

SEC. 7. Section 308 of the Penal Code is amended to read:

308. (a) (1) Every person, firm, or corporation which knowingly sells, gives, or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any a controlled substance, is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of two hundred dollars (\$200) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000) for the third offense; five hundred dollars (\$500) for a first violation, one thousand dollars (\$1,000) for a second violation within two years of the first violation, two thousand dollars (\$2,000) for a third violation within two years of the second violation, and two thousand dollars (\$2,000) for any violation within two years of a violation subsequent to the third violation.

(2) A fine imposed on a person, firm, or corporation for a violation of this subdivision that is a first violation or that occurs more than two years after any other violation of this subdivision shall be waived and any subsequent violation of this subdivision shall be deemed a first violation if the person, firm, or corporation clearly establishes that he, she, or it acted in good faith to prevent the violation and that the violation occurred despite the exercise of due diligence by the person, firm, or corporation. For purposes of this paragraph, a person, firm, or corporation shall be deemed to have exercised due diligence if the person, firm, or corporation complies with subdivisions (d) and (e).

(3) Notwithstanding Section 1464 or any other provision of law, 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the office of the city attorney, county counsel, or district attorney, whoever is responsible for bringing the successful action, and 25 percent of each civil and criminal penalty collected pursuant to this subdivision shall be paid to the city or county for the administration and cost of the community service work component provided in subdivision (b) (c).

(4) Proof that a defendant, or his or her employee or agent, demanded, was shown, and reasonably relied upon evidence of majority shall be a defense to any action brought pursuant to this subdivision. Evidence of majority of a person is a facsimile of or a reasonable likeness of a document issued by a federal, state, county, or municipal government, or subdivision or agency thereof, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the Federal Selective Service Act, or an identification card issued to a member of the armed forces.

(b) For purposes of this section, the person liable for selling or furnishing tobacco products to minors by a tobacco products vending machine shall be the person authorizing the installation or placement of the tobacco vending machine upon premises he or she manages or otherwise controls and under circumstances in which he or she has knowledge, or should otherwise have grounds for knowledge, that the tobacco products vending machine will be utilized by minors.

(b) (c) Every person under the age of 18 years who purchases or receives any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking of tobacco, products prepared from tobacco, or any controlled substance shall, upon conviction, be punished by a fine of fifty dollars (\$50) five hundred dollars (\$500) or 25 100 hours of community service work.

(c) (d) Every person, firm, or corporation which sells, or deals in tobacco or any preparation thereof, shall post conspicuously and keep so posted in his, her, or their place of business a copy of this act, and any, at each point of purchase within the premises, a sign, no smaller than 8 1/2 by 11 inches, stating the following in no smaller than 28 point type:

NOTICE—SECTION 308 OF THE PENAL CODE PROHIBITS THE SALE OF TOBACCO PRODUCTS TO PERSONS UNDER 18 YEARS OF AGE AND THE PURCHASE OF TOBACCO PRODUCTS BY PERSONS UNDER 18 YEARS OF AGE.

Any such person failing to do so shall upon conviction be punished by a fine of ten dollars (\$10) one hundred dollars (\$100) for the first offense and fifty dollars

(50) two hundred dollars (\$200) for each succeeding violation of this provision, or by imprisonment for not more than 30 days.

The Secretary of State is hereby authorized to have printed sufficient copies of this act to enable him or her to furnish dealers in tobacco with copies thereof upon their request for the same.

(e) Every person, firm, or corporation that sells, or deals in tobacco or any preparation thereof, shall notify each individual employed by the person, firm, or corporation as a retail sales clerk that state law prohibits the sale of tobacco products to any person under 18 years of age and the purchase of tobacco products by any person under 18 years of age. This notice shall be provided before the individual commences work as a retail sales clerk or, in the case of an individual employed as a retail sales clerk on the date when this subdivision becomes operative, within 30 days of that date. The individual shall signify that he or she has received the notice required by this subdivision by signing a form stating as follows: "I understand that state law prohibits the sale of tobacco products to persons under the age of 18 and the purchase of tobacco products by persons under the age of 18. I promise, as a condition of my employment, to observe this law." Each form signed by an individual shall indicate the date of signature. The employer shall retain the form signed by each individual employed as a retail sales clerk until 120 days after the individual has left the employer's employ. Any employer failing to comply with the requirements of this subdivision with respect to any employee shall upon conviction be punished by a fine of one hundred dollars (\$100) for the first offense and two hundred dollars (\$200) for each succeeding violation of this subdivision, or by imprisonment for not more than 30 days.

(f) For purposes of determining the liability of persons, firms, or corporations controlling franchises or business operations in multiple locations for the second and subsequent violations of this section, each individual franchise or business location shall be deemed a separate entity.

(g) It is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section.

(h) Notwithstanding any other provision of this section, the Director of Corrections may sell or supply tobacco and tobacco products, including cigarettes and cigarette papers, to any person confined in any institution or facility under his, her, or its jurisdiction who has attained the age of 16 years, if the parent or guardian of the person consents thereto, and may permit smoking by any such person in any such institution or facility. No officer or employee of the Department of Corrections shall be considered to have violated this section by any act authorized by this subdivision.

(i) In addition to other efforts to ensure compliance with this section, every county sheriff, city police chief, and other head of a law enforcement agency responsible for enforcing subdivision (a) shall at least annually conduct unannounced inspections at randomly selected locations where tobacco products are sold or distributed. A person under the age of 18 may be employed to test compliance with subdivision (a) only if the testing is conducted under the direct supervision of a peace officer acting within the scope of his or her official duties and written parental consent for the person's participation has been obtained. Except as provided in this subdivision, every person who, for the purpose of testing compliance of another with subdivision (a), solicits, employs or otherwise aids a minor in the purchase or attempted purchase of any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking of tobacco, products prepared from tobacco, or a controlled substance, is guilty of a misdemeanor.

(j) The Attorney General shall prepare for submission annually to the Secretary of the United States Department of Health and Human Services the report required by Section 1926 of Subpart II of Part B of Title XIX of the federal Public Health Service Act (42 U.S.C. Sec. 300x-26).

SEC. 8. Consistent with the finding in Section 1 of this act, the people find and declare that the need for uniform statewide regulation, as set forth in this act, is a matter of statewide concern and uniform statewide regulation of smoking in public places, bars, restaurants, and workplaces, as well as the sale, distribution, advertising, sampling, promotion, or display of tobacco products, is required to maximize public awareness of, and compliance with, this act and is warranted because these activities do not vary from county to county or city to city. This act shall apply, without limitation, to a city, county, and city and county, including a charter city, charter county, or charter city and county. It is the People's intent to regulate the subject matter of this act comprehensively and to occupy the field to the exclusion of local action. Notwithstanding any other provision of law, no ordinance or regulation of any city, county, city and county, including a charter city, charter county, or charter city and county, or other political subdivision of this state, or any local ordinance or regulation adopted by the use of an initiative or other ballot measure, shall in any way attempt to regulate the sale, distribution, advertising, sampling, promotion, or display of tobacco products, or smoking in public places, restaurants, bars, or workplaces.

SEC. 9. The amendment of Section 308 of the Penal Code by this act shall not be construed to in any way affect other statutory prohibitions before or hereafter enacted on the distribution of controlled substance paraphernalia to minors or possession of such paraphernalia, including, but not limited to, Sections 11364, 11364.5, and 11364.7 of the Health and Safety Code.

SEC. 10. This act may be amended by a statute passed by a two-thirds vote of the membership of each house of the Legislature.

SEC. 11. If any provision of this act or its application to any person or circumstance is held invalid, this shall not affect other provisions or applications of this act that can be given effect without the invalid application and to this end the provisions of the act are severable.

SEC. 12. This act shall become effective on the first day of July of the year following its enactment.



## LATER.

An old woman in South Africa walks along a dirty street,  
struggles under the weight of her possessions.  
She is tired and hot, but she pursues her goal.  
She wants to take advantage of her new privilege  
before she dies.

A busy young man bustles down a crowded  
street in New York City.  
He carries a leather briefcase,  
the contents of which control his life.  
He stops for a moment,  
recognizing a short blue sign, "Vote: 100 feet".  
He keeps walking, past the poll.  
"I am but one in millions", or,  
"maybe later, if I can find the time".

Although her feet ache, she steps ahead,  
a few more steps,  
Here. Finally, after years of waiting.  
She sets down her load, bursting with excitement.  
The pain in her feet has ceased.

He reaches his tall, towering apartment building,  
feeling the strain of the day,  
knowing he should have stopped to vote.  
"Oh, well, I'll vote next year".  
After all, he would live for a long time,  
and his vote would not make a difference  
in the years to come.  
His future would not be changed by one lousy vote.

Finally, in her old age,  
after years of fighting for this right,  
she and many others have voted for the first time.  
Their country will be changed to help the people,  
of today and of tomorrow.

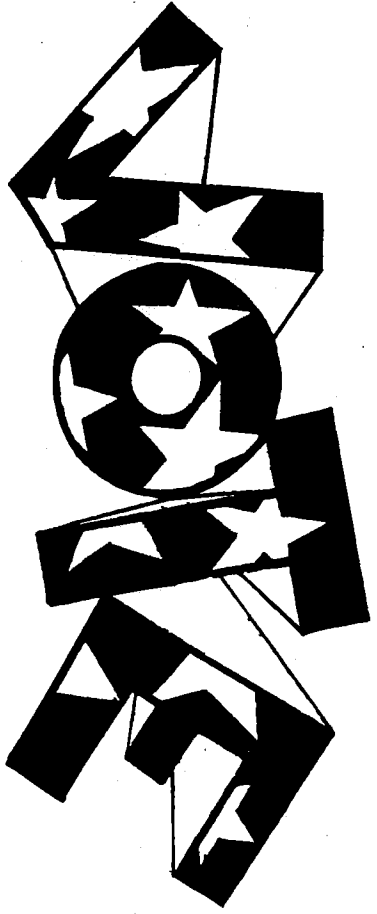
He'll vote when he gets around to it.  
He hasn't had to fight for it.  
It's always been there.  
If there's extra time. Later. Next year.  
Later might just be too late.

CARINA JOY BENDER  
Rio Americano High School  
Sacramento, California

Carina is the recipient of the \$500 first-place cash prize in the "You've Got the Power" high school voter education program. Carina's essay was selected from over 850 other essays that addressed the topic of why young people should vote.

Secretary of State  
1230 J Street  
SACRAMENTO, CA 95814

BULK RATE  
U.S.  
POSTAGE  
PAID  
Secretary of  
State



ROGER RAMIREZ  
Birmingham High School  
Van Nuys, California

### IMPORTANT NOTICE

The State produces a cassette-recorded version of this ballot pamphlet. These tape recordings are available from most public libraries. If you have a family member or friend who is visually impaired, please inform him or her of this service. Cassettes can be obtained by calling your local public library or your county elections official.

In an effort to reduce election costs, the State Legislature has authorized the State and counties having this capability to mail only one ballot pamphlet to addresses where more than one voter with the same surname resides. If you wish additional copies, you may obtain them by calling or writing to your county elections official.

**ELECTION  
MATERIAL**

Date of Hearing: July 13, 1993  
Counsel: Paul M. Gerowitz

ASSEMBLY COMMITTEE ON PUBLIC SAFETY  
Bob Epple, Chair

SB 60 (Presley) - As Proposed to be Amended In Committee

ISSUE: SHOULD THE NEW CRIME OF CARJACKING BE CREATED, AS SPECIFIED?

DIGEST

Under current law carjacking is punishable, under the robbery statute, by two, three, or five years in state prison and a fine up to \$10,000. (Penal Code sections 211 and 212.5(b).)

This bill:

- 1) Creates the new crime of carjacking, punishable by three, six, or nine years in state prison and a fine up to \$10,000.
- 2) Creates sentence enhancements specific to the crime of carjacking, as specified.
- 3) Makes appropriate cross-reference changes as specified.

COMMENTS

- 1) Purpose. According to the author:

There has been considerable increase in the number of persons who have been abducted, many have been subjected to the violent taking of their automobile and some have had a gun used in the taking of the car. This relatively "new" crime appears to be as much thrill-seeking as theft of a car. If all the thief wanted was the car, it would be simpler to hot-wire the automobile without running the risk of confronting the driver. People have been killed, seriously injured, and placed in great fear, and this calls for a strong message to discourage these crimes. Additionally law enforcement is reporting this new crime is becoming the initiating rite for aspiring gang members and the incidents are drastically increasing.

Under current law there is no carjacking crime per se and many carjackings cannot be charged as robbery because it is difficult to prove the intent required of a robbery offense (to permanently deprive one of the car) since many of these gang carjackings are thrill seeking thefts. There is a need to prosecute this crime.

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- 2) Penalties. This bill creates sentences of up to nine years for the crime of carjacking, which is three years more than the maximum sentence for robbery.
- 3) Sentence Enhancements. This bill also creates sentence enhancements specifically designed to punish serious carjacking offenders. For example, it provides for an enhancement of four, six, or eight years, for personal use of a firearm during the commission of a carjacking. The standard enhancement for personal use of a firearm during the commission of a felony is three, four, or five years. The bill also contains enhancement provisions for use of a deadly weapon other than a firearm, and for the discharging of a firearm causing great bodily injury. In addition, other existing sentence enhancements would be applicable.
- 4) Compared to Current Law. Under current law, a carjacking would be prosecuted as robbery, and would be subject to existing sentence enhancements. The maximum sentence for a carjacker who uses a gun and causes great bodily injury is, under current law, fourteen years. Under this bill, the same carjacker could receive a sentence of up to twenty years.
- 5) Cross-reference Changes. Because the law of robbery has an impact upon many other sections of the codes, the author of this bill has included in the bill various cross-reference changes. Among the most noteworthy of these are:
  - a) Juvenile Justice: Under current law, persons 16 years of age or older are presumed to be triable as adults if accused of specified offenses. Among these specified offenses are the crime of robbery while armed with a dangerous or deadly weapon. This bill adds carjacking with a dangerous or deadly weapon to the list.
  - b) Probation and Plea Bargaining: This bill provides that plea bargaining and probation limitations such as those which apply in robbery cases also apply in carjacking cases.
  - c) Petty Theft With a Prior: Under current law a person who commits petty theft, and who has previously served time for a theft-related offense, is guilty of a felony. This bill adds carjacking to the list of theft-related offenses which will qualify a defendant for felony status on the subsequent offense.
- 6) Related Legislation. On February 9, 1993 this Committee passed AB 6 (Burton), a bill which also created the crime of carjacking. That bill is currently in the Senate. Through a series of amendments and negotiations, the authors of AB 6 and SB 60 have agreed that the two bills shall be rendered identical with one another. The proposed amendments to this bill, which are reflected in this analysis, are consistent with that agreement.

- continued -

SOURCE: California District Attorneys Association  
San Diego County District Attorneys Office  
Governor's Office

SUPPORT: Greater Riverside Chambers of Commerce  
Doris Tate Crime Victims Bureau  
Personal Insurance Federation of California

OPPOSITION: California Attorneys for Criminal Justice

**DECLARATION OF SERVICE BY U.S. MAIL**

Case Name: **PEOPLE v. DARLENE A. VARGAS**

Case No.: **S203744**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On March 6, 2013, I served the attached

**RESPONDENT'S MOTION FOR JUDICIAL NOTICE**

by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Melanie K. Dorian  
Attorney at Law  
P.O. Box 5006  
Glendale, CA 91221-5006  
Counsel for Appellant


John A. Clarke  
Clerk of the Court  
Los Angeles County Superior Court  
111 N. Hill Street  
Los Angeles, CA 90012

The Honorable Steve L. Cooley  
Los Angeles County District Attorney's Office  
18000 Foltz Criminal Justice Center  
210 West Temple Street, 18th Floor  
Los Angeles, CA 90012  
Attn.: Gerald Ferris, Deputy District Attorney

For Delivery To:  
Hon. Bruce F. Marrs, Judge

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 6, 2013, at Los Angeles, California.

\_\_\_\_\_  
Vanida S. Sutthiphong  
Declarant

  
\_\_\_\_\_  
Signature