

AMENDED IN SENATE MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 95

Introduced by ~~Committee on Budget (Blumenfield (Chair), Alejo, Allen, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)~~
Assembly Member Brownley

January 10, 2011

~~An act relating to the Budget Act of 2011.~~ *An act to amend Sections 19606.1, 19607.5, 19608.3, 19620.1, and 19627.5 of, to amend and renumber Sections 19621.1, 19621.3, 19622.1, 19622.2, 19622.3, 19622.4, 19630.5, and 19639 of, and to repeal Sections 19606.3, 19606.4, 19620.2, 19621, 19621.2, 19630, 19632.5, 19632.6, 19635, 19638, and 19638.5 of, the Business and Professions Code, to add Section 25359.21 to the Health and Safety Code, to add Section 5007 to the Public Resources Code, to add Section 326 to the Public Utilities Code, to amend Section 8352.6 of the Revenue and Taxation Code, to amend Section 13260 of the Water Code, and to amend Section 27 of Chapter 718 of the Statutes of 2010, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

AB 95, as amended, ~~Committee on Budget~~ *Brownley*. ~~Budget Act of 2011.~~ *Public resources.*

(1) *Existing law establishes the Fair and Exposition Fund for the purpose of allocating moneys to provide financial support for the network of California fairs. Existing law requires that \$32,000,000 be transferred annually from the General Fund to the credit of a separate*

account of the fund. Existing law provides that the revenues in that separate account are continuously appropriated to the Department of Food and Agriculture for specified purposes. In addition, existing law requires the deposit of \$10,000,000 of the license fees for horse racing meetings into the fund and continuously appropriates those funds to the 51st District Agricultural Association for specified purposes.

This bill would repeal that annual transfer from the General Fund and those other provisions and make related changes.

(2) Existing law requires specified revenues received by the California Horse Racing Board to be deposited into the State Treasury to the credit of the Fair and Exposition Fund. Existing law provides that, in addition to those moneys deposited in the fund, the Legislature shall appropriate, and the board shall deposit in the fund, sums deemed necessary for the support of the board, as specified, and to the department for oversight of the network of California fairs, for contributions to the Unemployment Fund by the network of fairs, and for auditing of specified fairs. Any unallocated balance of revenues received by the board is continuously appropriated for allocation by the Secretary of Food and Agriculture for capital outlay to California fairs for specified projects or for general operational support.

This bill would repeal those provisions relating to revenues received by the board and would instead provide that, from revenue received by the department, the Legislature shall appropriate to the department sums deemed necessary for oversight of the network of California fairs and for auditing of specified fairs.

(3) Existing law requires the Secretary of Food and Agriculture to annually project the available revenues from the fund described above, and to prepare an annual expenditure plan for funds available from the fund. Existing law also requires the secretary to prepare and submit to the Department of Finance an estimate of the contributions, or the cost of benefits in lieu of contributions, payable to the Unemployment Fund by all California fairs, as specified.

This bill would delete those provisions. The bill would also make technical changes.

(4) Existing law authorizes the Department of Toxic Substances Control to compel a responsible party to take or pay for appropriate removal or remediation action necessary to protect public health and safety and the environment at the Santa Susana Field Laboratory (SSFL) site in Ventura County. The sale, lease, sublease, or other transfer of any land presently or formerly occupied by the Santa Susana Field

Laboratory is prohibited unless the Director of Toxic Substances Control certifies that the land has undergone complete remediation pursuant to specified protective standards.

This bill would provide that an administrative order on consent for the site, signed on December 6, 2010, between the department and the United States Department of Energy and a similar order between the department and the National Aeronautics and Space Administration, constitute the cleanup requirements and obligations for that portion of the site that is subject to those administrative orders and would require the administrative orders to result in the cleanup of the soil so that the level of radiological or chemical contaminants in the soil does not exceed local background levels, except as specified. The bill would require the department to enforce the administrative orders and the transfer prohibitions imposed on that site.

(5) Under existing law, the Department of Parks and Recreation has control of the state park system. The existing Tort Claims Act provides for the liability and immunity of a governmental entity for its acts or omissions that cause harm to persons.

This bill would require the Department of Parks and Recreation to achieve any required budget reductions by closing, partially closing, and reducing services at selected units of the state park system and would require the department to select the units to be closed based solely on specified factors.

The bill would provide immunity to a public entity and a public employee for injury or damage either caused by a condition of public property in or otherwise occurring at a state park system unit that is designated as closed, partially closed, or subject to service reduction by the department pursuant to these provisions.

(6) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, as defined. Existing law requires the commission, by January 10 of each year, to report to the Joint Legislative Budget Committee and appropriate fiscal and policy committees of the Legislature, on all sources and amounts of funding and actual and proposed expenditures related to specified entities or programs established by the commission. Existing law requires the commission to adopt an updated Conflict of Interest Code and Statement of Incompatible Activities.

This bill would require that the commission, by January 10 of each year, report to the Joint Legislative Budget Committee and appropriate fiscal and policy committees of the Legislature, on all sources and

amounts of funding and actual and proposed expenditures related to interactions by the commission, its officers, or its staff with the California Public Utilities Commission Foundation. The bill would require that within 8 weeks of any contribution to the foundation made at the behest of a member of the commission, its officers, or its staff, that the commission report the contribution to the Joint Legislative Budget Committee and appropriate fiscal and policy committees of the Legislature and include a certification that the contribution does not violate the Conflict of Interest Code and Statement of Incompatible Activities.

(7) Existing law requires certain moneys on the first day of every month to be transferred from the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund that are attributable to taxes imposed upon distribution of motor vehicle fuel related to specified off-highway motor vehicles and off-highway vehicle activities. The moneys in the fund are required to be used, upon appropriation, for specified purposes related to off-highway motor vehicle recreation.

This bill would require the Controller to withhold \$833,000 from this monthly transfer, and transfer that amount to the General Fund.

(8) The Porter-Cologne Water Quality Control Act, with certain exceptions, requires a waste discharger to pay an annual fee established by the State Water Resources Control Board. The act requires the total amount of fees collected to equal that amount necessary to recover certain costs relating to the administration of waste discharge requirements. Revenues generated by the imposition of the fee are deposited in the Waste Discharge Permit Fund for expenditure, upon appropriation by the Legislature, for specified water quality purposes.

This bill, for the purpose of calculating the annual fee, would authorize recoverable costs to also include costs incurred by the State Water Resources Control Board and the California regional water quality control boards in the adoption, review, and revision of water quality control plans and state policies for water quality control.

(9) The Sacramento-San Joaquin Delta Reform Act of 2009 establishes the Delta Stewardship Council, which is required to develop, adopt, and commence implementation of a comprehensive management plan for the Delta (Delta Plan) by January 1, 2012. The act provides that the council is the successor to the California Bay-Delta Authority, which previously was required to carry out programs, projects, and activities to implement the CALFED Bay-Delta Program with other implementing agencies.

Existing law requires the Governor, on or before April 1, 2011, to submit to the Legislature a report on the budget for the 2011–12 fiscal year for all state agency programs that implement water and ecosystem restoration activities in the Sacramento-San Joaquin Delta using a zero-based budget methodology, as defined. Existing law requires that budget to complement the budget for the CALFED Bay-Delta Program, and requires all state expenditures reported in the budget for the CALFED Bay-Delta Program for the 2011–12 fiscal year to be reported using a zero-based budget methodology.

This bill would require the Governor to submit the report on the budget using zero-based budget methodology for the 2012–13 fiscal year, instead of the 2011–12 fiscal year, and would require that report to be submitted to the Legislature by April 1, 2012, instead of April 1, 2011. The bill would additionally require the council, in developing a zero-based budget for these purposes, to conduct a programmatic review of CALFED Bay-Delta Program expenditures for consistency with the Delta Plan.

(10) The bill would appropriate \$1,000 from the General Fund to the Department of Parks and Recreation for administrative costs.

(11) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. Governor Schwarzenegger issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 6, 2010. Governor Brown issued a proclamation on January 20, 2011, declaring and reaffirming that a fiscal emergency exists and stating that his proclamation supersedes the earlier proclamation for purposes of that constitutional provision.

This bill would state that it addresses the fiscal emergency declared and reaffirmed by the Governor by proclamation issued on January 20, 2011, pursuant to the California Constitution.

(12) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

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

This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

1 **SECTION 1.** *Section 19606.1 of the Business and Professions*
2 *Code is amended to read:*

3 19606.1. (a) ~~All revenues transferred pursuant to Section~~
4 ~~19620.2 license fees from satellite wagering that are deposited in~~
5 *the Fair and Exposition Fund* shall be deposited in a separate
6 account in the fund and, notwithstanding Section 13340 of the
7 Government Code, are continuously appropriated from that account
8 to the Department of Food and Agriculture, for allocation by the
9 Secretary of Food and Agriculture, at his or her discretion, for the
10 purposes set forth in paragraphs (1) to (6), inclusive. The
11 concurrence of the Director of Finance shall be required for
12 allocations pursuant to paragraphs (1) and (2). Allocations pursuant
13 to paragraphs (3) to (6), inclusive, shall be made with the
14 concurrence of the Joint Committee on Fairs Allocation and
15 Classification.

16 (1) For the repayment of the principal of, interest on, and costs
17 of issuance of, and as security, including any coverage factor,
18 pledged to the payment of, bonds issued or to be issued by a joint
19 powers agency or other debt service or expense, including
20 repayment of any advances made or security required by any
21 provider of credit enhancement or liquidity for those bonds or
22 other indebtedness or expenses of maintaining that credit
23 enhancement or liquidity, incurred for the purpose of constructing
24 or acquiring improvements at a fair's racetrack inclosure, satellite
25 wagering facilities at fairs, health and safety repair projects, or
26 handicapped access compliance projects at fairs or for the purpose
27 of refunding bonds or other indebtedness incurred for those
28 purposes. As used in this paragraph, "coverage factor" means
29 revenues in excess of the amount necessary to pay debt service on
30 the bonds or other indebtedness, up to an amount equal to 100
31 percent more than the amount of that debt service, which a joint
32 powers agency, pursuant to the resolution or indenture under which
33 the bonds or other indebtedness are or will be issued, pledges as
34 additional security for the payment of that debt service or is
35 required to have or maintain as a condition to the issuance of
36 additional bonds or other indebtedness. Notwithstanding any other
37 provision of law, the department may also commit any funds
38 available for allocation under Article 10 (commencing with Section

1 19620) to complete projects funded under this paragraph in the
2 priority described in this paragraph.

3 (2) For payment to the State Race Track Leasing Commission
4 to be pledged for the repayment of debt necessary to construct a
5 racetrack grandstand at the 22nd District Agricultural Association
6 fairgrounds. This payment shall be made only if the Secretary of
7 Food and Agriculture determines, annually, that all other pledged
8 revenues have been applied to the repayment of that debt and have
9 been determined by the secretary to be inadequate for that purpose.

10 (3) For the payment of expenses incurred in establishing and
11 operating satellite wagering facilities at fairs.

12 (4) For the support of an equipment and operating fund to
13 produce and display a consolidated California signal at satellite
14 wagering facilities and fairs.

15 (5) For health and safety repair projects at fairs, which includes
16 fire and life safety improvement projects, California Code of
17 Regulations compliance projects, and long-term deferred
18 maintenance projects.

19 (6) For the development and payment of revenue generating
20 projects, the establishment of pilot projects to restructure the
21 current fair system, and for projects realizing a cost savings for
22 more efficient utilization of existing fair resources.

23 (b) The Secretary of Food and Agriculture may not make an
24 allocation for purposes of paragraphs (2) to (6), inclusive, of
25 subdivision (a) until the payments required in any fiscal year
26 pursuant to paragraph (1) of subdivision (a) have been funded.

27 (c) Pursuant to subdivision (a), the Joint Committee on Fairs
28 Allocation and Classification shall review and concur, or not
29 concur, with the secretary's determination of the allocations to be
30 made pursuant to paragraphs (3) to (6), inclusive, of subdivision
31 (a) in total, and the committee may not add to, or delete projects
32 or line items from, the proposed allocations.

33 (d) Approval of the Joint Committee on Fairs Allocation and
34 Classification is deemed complete when one of the following
35 conditions is met:

36 (1) The annual budget act is enacted.

37 (2) If the secretary's recommendations are received by the Joint
38 Committee on Fairs Allocation and Classification after the
39 enactment of the annual budget act, the recommendations shall be

1 deemed approved 30 days after they are received unless they are
2 rejected by the committee.

3 (e) If the Joint Committee on Fairs Allocation and Classification
4 does not concur with the secretary's recommendations, the
5 secretary may submit another set of recommendations to the
6 committee pursuant to this section.

7 (f) The payments required in any fiscal year for the purposes
8 of paragraphs (1) to (3), inclusive, of subdivision (a) shall be made
9 before any transfer is made pursuant to subdivision (g).

10 (g) Except as otherwise provided in subdivision (f), ~~when if~~ the
11 revenues deposited in the separate account exceed eleven million
12 dollars (\$11,000,000) in any fiscal year, the amount in excess of
13 eleven million dollars (\$11,000,000) shall be transferred to the
14 Fair and Exposition Fund for allocation in accordance with ~~Sections~~
15 ~~Section 19620.1 and 19630.~~

16 (h) All of the costs of administering the ~~accounts~~ *account* created
17 by subdivision (a) ~~and Section 19606.3~~ shall be charged to the
18 ~~respective accounts~~ *account*.

19 *SEC. 2. Section 19606.3 of the Business and Professions Code*
20 *is repealed.*

21 ~~19606.3. (a) From all revenues transferred pursuant to Section~~
22 ~~19620.2 and deposited in the Fair and Exposition Fund, an amount~~
23 ~~up to one million one hundred thousand dollars (\$1,100,000) may~~
24 ~~be allocated by the Secretary of Food and Agriculture, at his or~~
25 ~~her discretion, to supplement purses at fair meetings to achieve~~
26 ~~the purposes of Section 19606.4.~~

27 ~~(b) All allocations made pursuant to this section shall be made~~
28 ~~part of the annual expenditure plan submitted to the Joint~~
29 ~~Committee on Fairs Allocation and Classification by the Secretary~~
30 ~~of Food and Agriculture as provided in Section 19621.~~

31 *SEC. 3. Section 19606.4 of the Business and Professions Code*
32 *is repealed.*

33 ~~19606.4. It is the intent of the Legislature that funds allocated~~
34 ~~pursuant to Section 19606.3 be used primarily at fair racing~~
35 ~~meetings in the northern zone with a daily average handle of more~~
36 ~~than three hundred thousand dollars (\$300,000). The Legislature~~
37 ~~further finds that its intent is that these allocations be used to bring~~
38 ~~the purses at these fairs, exclusive of purses for stakes races and~~
39 ~~special events, to a level of at least 80 percent of purses for similar~~
40 ~~classes of horses at private associations in the northern zone. The~~

1 funds shall be used among all breeds. For fair racing meetings in
2 the northern zone with a daily average handle of three hundred
3 thousand dollars (\$300,000) or less, it is the intent of the
4 Legislature to bring the purses to a level of at least 25 percent of
5 purses for similar classes of horses at private associations in the
6 northern zone. Any funds remaining after meeting the requirements
7 of this section shall be used at fair meetings in the northern zone
8 as additional purses.

9 *SEC. 4. Section 19607.5 of the Business and Professions Code*
10 *is amended to read:*

11 19607.5. (a) Notwithstanding any other provision of law, when
12 if both a fair and a thoroughbred association are licensed by the
13 board to conduct live racing meetings within the northern zone
14 during the same calendar period, signals of both racing programs
15 shall be accepted at each live racing meeting within the northern
16 zone and at all satellite wagering facilities eligible to receive these
17 programs.

18 (b) Notwithstanding any other provision of law, in order to
19 ensure that fairs which previously had an exclusive right to send
20 their signals to satellite wagering facilities in the northern zone
21 during periods of overlap do not lose commission revenues from
22 satellite wagering, each fair that conducts its meeting during the
23 period described in subdivision (a) shall receive the following
24 satellite wagering commissions:

25 (1) With respect to the 2nd District Agricultural Association in
26 Stockton, the commissions payable to the fair from satellite
27 wagering during the period described in subdivision (a) shall be
28 the greater of any of the following:

29 (A) The actual commission earned by the fair from satellite
30 wagering on its live races during that period.

31 (B) Fifty percent of the total combined satellite wagering
32 commissions payable to the thoroughbred association and the fair
33 during that period.

34 (C) One hundred ten percent of the satellite wagering
35 commissions paid to the fair during its live racing meeting in 1990.

36 If the satellite wagering commissions received by the 2nd District
37 Agricultural Association are less than the greater of the amounts
38 specified in subparagraph (B) or (C), the thoroughbred association
39 shall pay to the fair from amounts deducted from satellite wagering
40 on its meeting and before distribution of any satellite wagering

1 commissions and purses on its meeting, an amount equal to the
2 difference between the actual satellite wagering commissions
3 received by the fair in that year and the applicable amount from
4 subparagraph (B) or (C). No additional satellite wagering
5 commission shall be paid to the fair by an association unless the
6 fair conducts live racing during the period described in subdivision
7 (a).

8 (2) With respect to the California Exposition and State Fair in
9 Sacramento, the commissions payable to the fair from satellite
10 wagering during the period described in subdivision (a) shall be
11 the greater of either of the following:

12 (A) The actual commission earned by the fair from satellite
13 wagering on its live races during that period.

14 (B) Sixty percent of the total combined satellite wagering
15 commissions payable to the thoroughbred association and the fair
16 during that period.

17 If the satellite wagering commissions received by the California
18 Exposition and State Fair are less than the amount described in
19 (B), the thoroughbred association shall pay to the fair from amounts
20 deducted from satellite wagering on its meeting and before
21 distribution of any satellite wagering commissions and purses on
22 its meeting, an amount equal to the difference between the actual
23 satellite wagering commissions received by the fair in that year
24 and the amount described in (B). No additional satellite wagering
25 commission shall be paid to the fair by an association unless the
26 fair conducts live racing during the period described in subdivision
27 (a).

28 (c) During any periods described in subdivision (a), including
29 periods of overlap for fairs not specified in subdivision (b), the
30 thoroughbred association shall deduct the same percentage from
31 the total amount wagered in its daily conventional and exotic
32 parimutuel pools as the percentage deducted by the fair meeting.
33 The amounts deducted shall be distributed as otherwise provided
34 in this article, with the following exceptions:

35 (1) If the percentages deducted from the conventional and exotic
36 parimutuel pools of the thoroughbred association under this
37 subdivision exceed the percentages deducted from the association's
38 pools during periods other than those described under subdivision
39 (a), the amount deducted which is equivalent to the difference

1 between those percentages shall be distributed by the thoroughbred
2 association equally between commissions and purses.

3 (2) If a thoroughbred association and the 2nd District
4 Agricultural Association in Stockton or the California Exposition
5 and State Fair in Sacramento both conduct live racing meetings
6 during any period described in subdivision (a), the total amount
7 deducted shall be distributed by both the association and fair in
8 the percentages specified for fair meetings in subdivision (b) of
9 Section 19605.7.

10 ~~Nothing in this~~ *This subdivision requires does not require* any
11 portion of the additional deduction to be distributed pursuant to
12 subdivision (c) of Section 19614.

13 (d) Notwithstanding any other ~~provision of law~~, an association
14 and fair that conduct their meeting pursuant to subdivision (b) shall
15 combine the operating expenses incurred at satellite wagering
16 facilities during the period described in subdivision (a). For
17 purposes of this subdivision only, the combined satellite wagering
18 operating expenses of the association and the fair during the period
19 described in subdivision (a) shall not exceed the actual expenses,
20 or 6 percent of the combined parimutuel pool at satellite wagering
21 facilities, whichever *amount* is less.

22 (e) ~~Notwithstanding Section 19606.4, it is the intent of the~~
23 ~~Legislature that during the period described in subdivision (a) the~~
24 ~~funds allocated pursuant to Section 19606.3 shall be used to bring~~
25 ~~purses at the fair racing meetings conducted by the 2nd District~~
26 ~~Agricultural Association and the California Exposition and State~~
27 ~~Fair to a level of at least 100 percent of purses for similar classes~~
28 ~~of horses at the private association which is conducting the~~
29 ~~simultaneous program.~~

30 *SEC. 5. Section 19608.3 of the Business and Professions Code*
31 *is amended to read:*

32 19608.3. (a) Funds allocated by the ~~Director~~ *Secretary* of Food
33 and Agriculture pursuant to paragraph ~~(3)~~ *(5)* of subdivision (a)
34 of Section 19606.1 for fire and life safety improvement projects,
35 California Code of Regulations compliance projects, and long-term
36 *deferred* maintenance projects at fairs in the northern zone shall
37 be allocated in accordance with a project schedule determined by
38 the Department of Food and Agriculture in compliance with this
39 section.

1 (b) The department shall prepare a three-year schedule of these
2 projects which commences July 1, 1987, and shall annually update
3 the schedule. The schedule shall list individual project costs,
4 contain a project description, and specify estimated project
5 completion dates.

6 *SEC. 6. Section 19620.1 of the Business and Professions Code*
7 *is amended to read:*

8 ~~19620.1. (a) From the total revenue received by the board,~~
9 ~~including revenues transferred from the Satellite Wagering Account~~
10 ~~pursuant to subdivision (g) of Section 19606.1, but excluding~~
11 ~~money received pursuant to Sections 19640 and 19641, the sum~~
12 ~~of two hundred sixty-five thousand dollars (\$265,000) plus an~~
13 ~~amount equal to $\frac{62}{100}$ of 1 percent of the gross amount of money~~
14 ~~handled in the annual parimutuel pool generated within this state,~~
15 ~~or the maximum amount received by the state from the parimutuel~~
16 ~~pool of a racing meeting held in this state, whichever is less, shall~~
17 ~~be paid into the State Treasury to the credit of the Fair and~~
18 ~~Exposition Fund.~~

19 ~~(b) From~~

20 ~~19620.1. From the total revenue received by the board~~
21 ~~department, exclusive of money received pursuant to Sections~~
22 ~~19640 and 19641, and in addition to the funds paid into the State~~
23 ~~Treasury to the credit of the Fair and Exposition Fund as specified~~
24 ~~in subdivision (a), the Legislature shall annually appropriate and~~
25 ~~the board shall deposit to the credit of the Fair and Exposition~~
26 ~~Fund, such to the department those sums as it deems necessary~~
27 ~~for the following purposes:~~

28 ~~(1) For the support of the board, including any costs and~~
29 ~~expenses incurred by the Attorney General in the enforcement of~~
30 ~~this chapter as shall be authorized by the board, including,~~
31 ~~compensation including any fringe benefits paid to stewards and~~
32 ~~to the official veterinarian, and an amount not less than the amount~~
33 ~~expended in the 1994-95 fiscal year for the costs of laboratory~~
34 ~~testing related to horse racing pursuant to Section 19580.~~

35 ~~(2) To the Department of Food and Agriculture for~~

36 ~~(a) For the oversight of the network of California fairs receiving~~
37 ~~money from the fund.~~

38 ~~(3) To the Department of Food and Agriculture for the~~
39 ~~contributions, or the cost of benefits in lieu of contributions,~~
40 ~~payable to the Unemployment Fund by the network of California~~

1 fairs receiving funds pursuant to this article, as a result of
2 unemployment insurance coverage pursuant to Section 605 of the
3 Unemployment Insurance Code.

4 ~~(4) To the Department of Food and Agriculture for~~

5 ~~(b) For the auditing of all district agricultural association fairs,~~
6 ~~county fairs, and citrus fruit fairs.~~

7 *SEC. 7. Section 19620.2 of the Business and Professions Code*
8 *is repealed.*

9 ~~19620.2. Notwithstanding any other provision of law, on July~~
10 ~~1, 2009, and on each July 1 thereafter, 32 million dollars~~
11 ~~(\$32,000,000) shall be transferred from the General Fund and paid~~
12 ~~into the State Treasury to the credit of the separate account of the~~
13 ~~Fair and Exposition Fund specified in Section 19606.1 and shall~~
14 ~~be continuously appropriated for allocation as specified in that~~
15 ~~section and Section 19620.1 only for the financial support of the~~
16 ~~network of California fairs.~~

17 *SEC. 8. Section 19621 of the Business and Professions Code*
18 *is repealed.*

19 ~~19621. (a) Not more than 5 percent of the Fair and Exposition~~
20 ~~Fund may be used during any fiscal year to augment the budget~~
21 ~~of the Department of Food and Agriculture to develop and~~
22 ~~administer an operational and policy framework for the network~~
23 ~~of California fairs.~~

24 ~~(b) The Secretary of Food and Agriculture shall annually project~~
25 ~~the available revenues from this source and submit a~~
26 ~~recommendation to the Governor for the additional staff and~~
27 ~~contracts necessary to oversee the network of California fairs.~~

28 ~~(c) The Secretary of Food and Agriculture shall prepare an~~
29 ~~annual expenditure plan for funds available from the Fair and~~
30 ~~Exposition Fund for review and approval by the Joint Committee~~
31 ~~on Fairs Allocation and Classification. The Joint Committee on~~
32 ~~Fairs Allocation and Classification shall review and concur, or not~~
33 ~~concur, with the spending plan in total, and may not add to, or~~
34 ~~delete projects or line items from, the budget.~~

35 ~~(d) Approval of the Joint Committee on Fairs Allocation and~~
36 ~~Classification is deemed complete when one of the following~~
37 ~~conditions is met:~~

38 ~~(1) The annual budget act is enacted.~~

39 ~~(2) If the secretary's recommendations are received by the Joint~~
40 ~~Committee on Fairs Allocation and Classification after the~~

1 enactment of the annual budget act, the recommendations shall be
2 deemed approved 30 days after they are received unless they are
3 rejected by the committee.

4 (e) ~~If the Joint Committee on Fairs Allocation and Classification~~
5 ~~does not concur with the secretary's recommendations, the~~
6 ~~secretary may submit another set of recommendations to the~~
7 ~~committee pursuant to this section.~~

8 *SEC. 9. Section 19621.1 of the Business and Professions Code*
9 *is amended and renumbered to read:*

10 ~~19621.1.~~

11 *19621.* Notwithstanding any other ~~provision~~ of law, neither
12 the state nor the Department of Food and Agriculture is liable for
13 any contract or tort of, or any action taken or any failure to act by,
14 any fair in the network of California fairs that does not comply
15 with the requirements of Section ~~19622.3~~ *19622.2.*

16 No member of the fair board, or any employee or agent thereof,
17 is personally liable for the contracts or actions of the fair board,
18 and no member of the fair board or employee or agent thereof is
19 responsible individually in any way to any other person for error
20 in judgment, mistakes, or other acts, either of commission or
21 omission, as principal, agent, or employee, except for his or her
22 own individual acts of dishonesty or crime. No member of the fair
23 board shall be held responsible individually for any act or omission
24 of any other member of the fair board. The liability of the members
25 of the fair board is several and not joint, and no member is liable
26 for the default of any other member.

27 *SEC. 10. Section 19621.2 of the Business and Professions Code*
28 *is repealed.*

29 ~~19621.2.~~ The Secretary of Food and Agriculture shall prepare
30 and submit to the Department of Finance an estimate of the
31 contributions, or the cost of benefits in lieu of contributions, that
32 are payable to the Unemployment Fund by all California fairs
33 receiving funds pursuant to this article. The Director of Finance
34 shall include those estimates in the Budget Bill submitted to the
35 Legislature.

36 *SEC. 11. Section 19621.3 of the Business and Professions Code*
37 *is amended and renumbered to read:*

38 ~~19621.3.~~

39 *19621.1.* (a) The Secretary of Food and Agriculture shall
40 prepare and submit to the Department of Finance an estimate of

1 revenue to be deposited in the fund and allocations to be made
2 from the fund for each fiscal year.

3 The Director of Finance may authorize short-term, cash-flow
4 loans from the unappropriated surplus of the General Fund to the
5 Fair and Exposition Fund if all of the following conditions are
6 met:

7 (1) The loan will be repaid during the same fiscal year in which
8 it is made.

9 (2) No loan exceeds the amount remaining to be allocated in
10 any fiscal year or 75 percent of the revenue estimated to be
11 deposited in the Fair and Exposition Fund during the remainder
12 of the fiscal year.

13 (b) The Secretary of Food and Agriculture shall notify the State
14 Controller when loans under this section are no longer required
15 and any unnecessary loan funds shall be returned to the General
16 Fund.

17 *SEC. 12. Section 19622.1 of the Business and Professions Code*
18 *is amended and renumbered to read:*

19 ~~19622.1.~~

20 *19622.* (a) In order to maintain their eligibility to receive funds
21 or to utilize state assets, the fairs specified in Section 19418 shall
22 do all of the following:

23 (1) File an annual statement of operations with the Department
24 of Food and Agriculture.

25 (2) Conduct an annual fair that includes agriculture and other
26 community-relevant exhibits and competitions.

27 (b) The Department of Food and Agriculture may withhold or
28 restrict allocations to fairs that do not comply with this section or
29 the fiscal standards or administrative standards established by the
30 department. The department shall establish an appeal process for
31 fairs regarding funds that are withheld or restricted.

32 *SEC. 13. Section 19622.2 of the Business and Professions Code*
33 *is amended and renumbered to read:*

34 ~~19622.2.~~

35 *19622.1.* (a) The authority of the Department of Food and
36 Agriculture shall include, but is not limited to, requiring the
37 California Exposition and State Fair to meet all applicable
38 standards prescribed by the department.

39 (b) The department may delegate approval authority for such
40 matters as the department may determine to the Board of Directors

1 of the California Exposition and State Fair if the fair complies with
 2 this section.

3 (c) Notwithstanding any other ~~provision of~~ law, the department
 4 may assume all rights, duties, and powers of the Board of Directors
 5 of the California Exposition and State Fair if the department
 6 determines there is insufficient fiscal or administrative control.
 7 The board of directors shall again exercise these rights, duties, and
 8 powers when the department determines that the fair has been
 9 restored to solvency and is in compliance with this section.

10 (d) The department may petition a court of competent
 11 jurisdiction for an order appointing the department, or a person
 12 designated by the department, as a receiver if it determines that
 13 the California Exposition and State Fair is insolvent, or is in
 14 imminent danger of insolvency. The court shall appoint a receiver
 15 upon showing that the fair is insolvent, or is in imminent danger
 16 of insolvency.

17 (e) For the purposes of this section, “insolvency” means that
 18 the California Exposition and State Fair is unable to discharge its
 19 debts as they become due in the usual course of business.

20 (f) The General Fund and the Fairs and Exposition Fund shall
 21 be held harmless from any debts, liabilities, settlements, judgments,
 22 or liens incurred by the California Exposition and State Fair,
 23 including any deficiency in operating funds.

24 *SEC. 14. Section 19622.3 of the Business and Professions Code*
 25 *is amended and renumbered to read:*

26 ~~19622.3.~~

27 *19622.2.* (a) The authority of the Department of Food and
 28 Agriculture shall include, but is not limited to, requiring district
 29 agricultural associations to meet all applicable standards prescribed
 30 by the Department of Food and Agriculture.

31 (b) The department may delegate approval authority for such
 32 matters as the department may determine to the board of directors
 33 if the board complies with this section. The department shall report
 34 annually to the Joint Committee on Fairs Allocation and
 35 Classification the names of fairs that are delegated that authority.

36 (c) Notwithstanding any other ~~provision of~~ law, and in order to
 37 protect the integrity of the Fair and Exposition Fund, the
 38 department may assume any or all rights, duties, and powers of
 39 the board of directors of a district agricultural association if the
 40 department reasonably determines that there is insufficient fiscal

1 or administrative control. The board of directors shall again
2 exercise these rights, duties, and powers when the department
3 determines that the fair is in compliance with this section. The
4 department shall report annually to the Joint Committee on Fairs
5 Allocation and Classification the names of fairs with respect to
6 which the department has taken the action prescribed in this
7 subdivision and subdivision (d).

8 (d) The department may petition a court of competent
9 jurisdiction for an order appointing the department, or a person
10 designated by the department, as a receiver if it determines that
11 the fair is insolvent, or is in imminent danger of insolvency. The
12 court shall appoint a receiver upon a showing that the fair is
13 insolvent, or is in imminent danger of insolvency.

14 (e) For the purposes of this section, “insolvency” means that
15 the district agricultural association is unable to discharge its debts
16 as they become due in the usual course of business.

17 *SEC. 15. Section 19622.4 of the Business and Professions Code*
18 *is amended and renumbered to read:*

19 ~~19622.4.~~

20 19622.3. The authority of the Department of Food and
21 Agriculture shall include, but is not limited to, requiring county
22 fairs and citrus fruit fairs to do all of the following:

23 (a) Meet all applicable standards prescribed by the Department
24 of Food and Agriculture.

25 (b) Submit to the department for review and approval every five
26 years a written agreement specifying the operational, financial,
27 and administrative responsibilities between the entity producing
28 the fair and the host county, or the host agency.

29 *SEC. 16. Section 19627.5 of the Business and Professions Code*
30 *is amended to read:*

31 19627.5. Notwithstanding Section 19623, any unanticipated
32 revenues, other than any allocation from the state, which are in
33 excess of the approved budget for any fiscal or calendar year of
34 any California fair shall be retained by that fair ~~and may be~~
35 ~~expended for any purpose specified in Section 19630.~~

36 These funds may be expended, without regard to any fiscal year,
37 by any fair to which Section 19623 applies, upon ~~positive action~~
38 *approval* by the board of directors of that fair, which shall be
39 recorded in the official minutes of the fair approving a plan of

1 expenditure for those funds for the purposes specified in Section
2 19630.

3 *SEC. 17. Section 19630 of the Business and Professions Code*
4 *is repealed.*

5 19630. (a) Any unallocated balance from subdivision (a) of
6 Section 19620.1 is hereby appropriated without regard to fiscal
7 years for allocation by the Secretary of Food and Agriculture for
8 capital outlay to California fairs for fair projects involving public
9 health and safety, for fair projects involving major and deferred
10 maintenance, for fair projects necessary due to any emergency,
11 for projects that are required by physical changes to the fair site,
12 for projects that are required to protect the fair property or
13 installation, such as fencing and flood protection, and for the
14 acquisition or improvement of any property or facility that will
15 serve to enhance the operation of the fair.

16 (b) A portion of the funds subject to allocation pursuant to
17 subdivision (a) may be allocated to California fairs for general
18 operational support. It is the intent of the Legislature that these
19 moneys be used primarily for those fairs whose sources of revenue
20 may be limited for purposes specified in this section.

21 *SEC. 18. Section 19630.5 of the Business and Professions Code*
22 *is amended and renumbered to read:*

23 19630.5:

24 19630. Notwithstanding any other provision of law, any fair
25 qualified to receive an allocation that has complied with the
26 requirements set forth in subdivision (b) of Section 19622.1 19622,
27 with the approval of the Department of Food and Agriculture, may
28 expend available funds for the construction or operation of
29 recreational and cultural facilities of general public interest.

30 *SEC. 19. Section 19632.5 of the Business and Professions Code*
31 *is repealed.*

32 19632.5. (a) After the payments required pursuant to
33 subdivisions (a) and (b) of Section 19632, but prior to any
34 payments pursuant to subdivision (c) of that section, ten million
35 dollars (\$10,000,000) of the license fees specified in Section 19632
36 shall be deposited in a special account in the Fair and Exposition
37 Fund and those moneys, including any earnings on the moneys so
38 deposited, shall be used solely by the 51st District Agricultural
39 Association for the acquisition or development, or both, of a
40 fairgrounds site.

1 ~~(b) The moneys in the account are hereby appropriated, without~~
2 ~~regard to fiscal years, to the 51st District Agricultural Association~~
3 ~~for the purpose specified in subdivision (a), to be expended, with~~
4 ~~the approval of the Division of Fairs and Expositions in the~~
5 ~~Department of Food and Agriculture, on the basis of 34 percent~~
6 ~~money from the account and 66 percent matching money from~~
7 ~~cities, counties, special districts, or other units of government or~~
8 ~~from any source other than the account. Matching funds may be~~
9 ~~in the form of cash or any other form acceptable to the district. If~~
10 ~~the matching funds are in a form other than cash, they shall be~~
11 ~~approved by the Assistant Director of Food and Agriculture in~~
12 ~~charge of the Division of Fairs and Expositions prior to~~
13 ~~expenditure.~~

14 ~~(c) Any earnings in the account, from inception, shall be~~
15 ~~transferred to the 51st District Agricultural Association on a pro~~
16 ~~rata basis as funds are paid out of the account, in 5 percent~~
17 ~~increments, corresponding to the percentage paid out pursuant to~~
18 ~~subdivision (b).~~

19 ~~SEC. 20. Section 19632.6 of the Business and Professions Code~~
20 ~~is repealed.~~

21 ~~19632.6. (a) If the moneys provided for in subdivision (b) of~~
22 ~~Section 19632.5, including matching funds, are less than the total~~
23 ~~amount of funds determined as proper for the acquisition and~~
24 ~~development of a fairgrounds site in the study carried out pursuant~~
25 ~~to subdivision (a) of Section 1 of Chapter 647 of the Statutes of~~
26 ~~1980, commencing on June 30, 1992, and on June 30th annually~~
27 ~~thereafter, the Controller shall apportion for the fiscal year ending~~
28 ~~on that date, until that difference is eliminated, 1 percent of the~~
29 ~~revenues paid to the state, which exceed the revenues paid to the~~
30 ~~state during the 1983-84 fiscal year, under Article 4 (commencing~~
31 ~~with Section 6870) from tide and submerged lands and deposit~~
32 ~~that amount in the special account in the Fair and Exposition Fund~~
33 ~~created by subdivision (a) of Section 19632.5 for expenditure~~
34 ~~pursuant to that section.~~

35 ~~(b) The funds appropriated and allocated in this section are~~
36 ~~subject to reappropriation or allocation in any fiscal year by the~~
37 ~~Budget Act for that year; and if the Budget Act for any fiscal year~~
38 ~~reappropriates or reallocates the funds provided for in this section,~~
39 ~~the appropriation and allocation in this act shall be inoperative for~~
40 ~~that fiscal year.~~

1 *SEC. 21. Section 19635 of the Business and Professions Code*
2 *is repealed.*

3 ~~19635. During each of the Fiscal Years 1951–52, 1952–53,~~
4 ~~and 1953–54, out of the license fees for conducting horse racing~~
5 ~~meetings not payable into the Fair and Exposition Fund, the~~
6 ~~Wildlife Restoration Fund, or the State College Fund, there is~~
7 ~~appropriated to the California State Polytechnic College for~~
8 ~~permanent improvements at the Kellogg and Voorhis Units the~~
9 ~~sum of one million dollars (\$1,000,000), and the remainder shall~~
10 ~~be paid into the General Fund in the State Treasury.~~

11 ~~The amounts appropriated by this section shall be transferred to~~
12 ~~the Capital Outlay and Savings Fund, but the permanent~~
13 ~~improvements mentioned shall be deferred and no expenditures~~
14 ~~made therefor until or unless authorized by other legislation.~~

15 ~~The amounts appropriated by this section shall be available for~~
16 ~~expenditure without regard to fiscal year.~~

17 *SEC. 22. Section 19638 of the Business and Professions Code*
18 *is repealed.*

19 ~~19638. The Controller shall pay from the fund to the 1-A~~
20 ~~District Agricultural Association the appropriation for the support~~
21 ~~of that organization.~~

22 *SEC. 23. Section 19638.5 of the Business and Professions Code*
23 *is repealed.*

24 ~~19638.5. The Controller shall pay from the fund to the 48th~~
25 ~~District Agricultural Association the appropriation for its support.~~

26 *SEC. 24. Section 19639 of the Business and Professions Code*
27 *is amended and renumbered to read:*

28 ~~19639.~~

29 ~~19638.~~ The books and records of any county or citrus fruit fair
30 or exposition receiving an appropriation or an allocation from the
31 Fair and Exposition Fund, insofar as they relate to revenues and
32 expenditures for fair or exposition purposes, may be audited by
33 the Department of Finance.

34 When any county or citrus fruit fair or exposition receiving an
35 appropriation or allocation from the Fair and Exposition Fund
36 contracts with an association to conduct such fair or exposition,
37 the contract shall include a provision that the books and records
38 of such association shall be subject to audit by the Department of
39 Finance at the discretion of the department.

1 SEC. 25. Section 25359.21 is added to the Health and Safety
2 Code, to read:

3 25359.21. (a) The Legislature finds and declares that on
4 December 6, 2010, an administrative order on consent was signed
5 between the United States Department of Energy and the
6 department, and a similar administrative order on consent was
7 signed between the department and the National Aeronautics and
8 Space Administration, for a remedial action on portions of the
9 Santa Susana Field Laboratory site.

10 (b) For purposes of this section, the following definitions shall
11 apply:

12 (1) "Administrative order" means an administrative order on
13 consent signed on December 6, 2010, between the United States
14 Department of Energy and the department for a remedial action
15 to the site, the similar administrative order on consent signed on
16 December 6, 2010, between the department and the National
17 Aeronautics and Space Administration.

18 (2) "Site" means the Santa Susana Field Laboratory site in
19 Ventura County.

20 (c) An administrative order shall constitute the cleanup
21 requirements and obligations for the portion of the site that is
22 subject to that administrative order.

23 (d) An administrative order shall result in the cleanup of soil
24 for that portion of the site that is subject to the administrative
25 order so that the level of radiological or chemical contaminants
26 in the soil does not exceed local background levels, except as
27 provided in the exemptions specifically expressed and incorporated
28 by reference in an administrative order entered into on December
29 6, 2010.

30 (e) The department shall enforce an administrative order, and,
31 when enforcing an order, shall enforce the prohibitions on transfer
32 specified in subdivisions (d) and (e) of Section 25359.20.

33 SEC. 26. Section 5007 is added to the Public Resources Code,
34 to read:

35 5007. (a) The department shall achieve any required budget
36 reductions by closing, partially closing, and reducing services at
37 selected units of the state park system. For purposes of this section,
38 "required budget reductions" means the amount of funds
39 appropriated in the annual Budget Act to the department that is
40 less than the amount necessary to fully operate the 2010 level of

1 278 units of the state park system. The department shall select the
2 units to be closed based solely on all of the following factors:
3 (1) The relative statewide significance of each park unit,
4 preserving to the extent possible, parks identified in the
5 department's documents including "Outstanding and
6 Representative Parks," the "California State History Plan," and
7 the "California State Parks Survey of 1928."
8 (2) The rate of visitation to each unit, to minimize impacts to
9 visitation in the state park system.
10 (3) (A) The estimated net savings from closing each unit, to
11 maximize savings to the state park system.
12 (B) For purposes of this subdivision, "net savings" means the
13 estimated costs of operation for the unit less the unit's projected
14 revenues and less the costs of maintaining the unit after it is closed.
15 (4) The feasibility of physically closing each unit.
16 (5) The existence of, or potential for, partnerships that can help
17 support each unit, including concessions and both for-profit and
18 nonprofit partners.
19 (6) Significant operational efficiencies to be gained from closing
20 a unit based on its proximity to other closed units where the units
21 typically share staff and other operating resources.
22 (7) Significant and costly infrastructure deficiencies affecting
23 key systems at each unit so that continued operation of the unit is
24 less cost effective relative to other units.
25 (8) Recent or funded infrastructure investments at a unit.
26 (9) Necessary but unfunded capital investments at a unit.
27 (10) Deed restrictions and grant requirements applicable to
28 each unit.
29 (11) The extent to which there are substantial dedicated funds
30 for the support of the unit that are not appropriated from the
31 General Fund.
32 (b) Notwithstanding Division 3.6 (commencing with Section
33 810) of Title 1 of the Government Code, a public entity or a public
34 employee is not liable for injury or damage caused by a condition
35 of public property located in, or injury or damage otherwise
36 occurring in, or arising out of an activity in, a state park system
37 unit that is designated as closed, partially closed, or subject to
38 service reduction by the department pursuant to subdivision (a).
39 This immunity shall apply notwithstanding the fact that the public
40 has access, whether invited or uninvited, to the state park system

1 unit, and notwithstanding that the department may take actions
2 such as patrols, inspections, maintenance, and repairs necessary
3 to protect the state park system unit facilities and resources from
4 deterioration, damage, or destruction. The immunity provided by
5 this subdivision does not limit any other immunity or immunities
6 available to a public entity or a public employee.

7 SEC. 27. Section 326 is added to the Public Utilities Code, to
8 read:

9 326. (a) By January 10, 2012, and by January 10 of each year
10 thereafter, the commission shall report to the Joint Legislative
11 Budget Committee and appropriate fiscal and policy committees
12 of the Legislature, on all sources and amounts of funding and
13 actual and proposed expenditures, both in the two prior fiscal
14 years and for the proposed fiscal year, including any costs to
15 ratepayers, related to interactions by the commission, its officers,
16 or its staff with the California Public Utilities Commission
17 Foundation, or any derivative, or successor, or with any agent or
18 director of the foundation, including all of the following:

19 (1) Attendance at meetings, conferences, or events organized
20 or sponsored by the foundation.

21 (2) Any contract or other agreement between the commission,
22 its officers, or its staff and the foundation, including agreements
23 relating to attendance at any educational or training conference
24 or event.

25 (3) Any agenda item, order, decision, resolution, or motion,
26 referencing the foundation.

27 (4) Endorsements of the foundation or its activities.

28 (5) Any contribution made to the foundation at the behest of a
29 member of the commission, its officers, or its staff, and any direct
30 or indirect contribution made to the foundation by a member of
31 the commission, its officers, or its staff. For purposes of this
32 paragraph, "contribution" means any payment, a forgiveness of
33 a loan, a payment of a loan by a third party, or an enforceable
34 promise to make a payment, except to the extent that full and
35 adequate consideration is received.

36 (b) (1) Within eight weeks of any contribution to the foundation
37 made at the behest of a member of the commission, its officers, or
38 its staff, the commission shall report the contribution to the Joint
39 Legislative Budget Committee and appropriate fiscal and policy

1 *committees of the Legislature, and include any documents*
 2 *pertaining to the contribution.*

3 *(2) Each report shall include certification from the commission*
 4 *that the contribution does not violate the Conflict of Interest Code*
 5 *and Statement of Incompatible Activities adopted pursuant to*
 6 *Section 303.*

7 *SEC. 28. Section 8352.6 of the Revenue and Taxation Code is*
 8 *amended to read:*

9 8352.6. (a) (1) Subject to Section 8352.1, on the first day of
 10 every month, there shall be transferred from moneys deposited to
 11 the credit of the Motor Vehicle Fuel Account to the Off-Highway
 12 Vehicle Trust Fund created by Section 38225 of the Vehicle Code
 13 an amount attributable to taxes imposed upon distributions of motor
 14 vehicle fuel used in the operation of motor vehicles off highway
 15 and for which a refund has not been claimed. Transfers made
 16 pursuant to this section shall be made prior to transfers pursuant
 17 to Section 8352.2.

18 *(2) The Controller shall withhold eight hundred thirty-three*
 19 *thousand dollars (\$833,000) from this monthly transfer, and*
 20 *transfer that amount to the General Fund.*

21 (b) The amount transferred pursuant to *paragraph (1) of*
 22 *subdivision (a), as a percentage of the Motor Vehicle Fuel Account,*
 23 *shall be equal to the percentage transferred in the 2006–07 fiscal*
 24 *year. Every five years, starting in the 2013–14 fiscal year, the*
 25 *percentage transferred may be adjusted by the Department of*
 26 *Transportation in cooperation with the Department of Parks and*
 27 *Recreation and the Department of Motor Vehicles. Adjustments*
 28 *shall be based on, but not limited to, the changes in the following*
 29 *factors since the 2006–07 fiscal year or the last adjustment,*
 30 *whichever is more recent:*

31 (1) The number of vehicles registered as off-highway motor
 32 vehicles as required by Division 16.5 (commencing with Section
 33 38000) of the Vehicle Code.

34 (2) The number of registered street-legal vehicles that are
 35 anticipated to be used off highway, including four-wheel drive
 36 vehicles, all-wheel drive vehicles, and dual-sport motorcycles.

37 (3) Attendance at the state vehicular recreation areas.

38 (4) Off-highway recreation use on federal lands as indicated by
 39 the United States Forest Service’s National Visitor Use Monitoring

1 and the United States Bureau of Land Management’s Recreation
2 Management Information System.

3 (c) It is the intent of the Legislature that transfers from the Motor
4 Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund
5 should reflect the full range of motorized vehicle use off highway
6 for both motorized recreation and motorized off-road access to
7 other recreation opportunities. Therefore, the Legislature finds that
8 the fuel tax baseline established in subdivision (b), attributable to
9 off-highway estimates of use as of the 2006–07 fiscal year,
10 accounts for the three categories of vehicles that have been found
11 over the years to be users of fuel for off-highway motorized
12 recreation or motorized access to nonmotorized recreational
13 pursuits. These three categories are registered off-highway
14 motorized vehicles, registered street-legal motorized vehicles used
15 off highway, and unregistered off-highway motorized vehicles.

16 (d) It is the intent of the Legislature that the off-highway motor
17 vehicle recreational use to be determined by the Department of
18 Transportation pursuant to paragraph (2) of subdivision (b) be that
19 usage by vehicles subject to registration under Division 3
20 (commencing with Section 4000) of the Vehicle Code, for
21 recreation or the pursuit of recreation on surfaces where the use
22 of vehicles registered under Division 16.5 (commencing with
23 Section 38000) of the Vehicle Code may occur.

24 *SEC. 29. Section 13260 of the Water Code is amended to read:*

25 13260. (a) ~~At~~ Each of the following persons shall file with
26 the appropriate regional board a report of the discharge, containing
27 the information ~~which~~ that may be required by the regional board:

28 (1) ~~Any~~ A person discharging waste, or proposing to discharge
29 waste, within any region that could affect the quality of the waters
30 of the state, other than into a community sewer system.

31 (2) ~~Any~~ A person who is a citizen, domiciliary, or political
32 agency or entity of this state discharging waste, or proposing to
33 discharge waste, outside the boundaries of the state in a manner
34 that could affect the quality of the waters of the state within any
35 region.

36 (3) ~~Any~~ A person operating, or proposing to construct, an
37 injection well.

38 (b) No report of waste discharge need be filed pursuant to
39 subdivision (a) if the requirement is waived pursuant to Section
40 13269.

1 (c) ~~Every~~*Each* person subject to subdivision (a) shall file with
2 the appropriate regional board a report of waste discharge relative
3 to any material change or proposed change in the character,
4 location, or volume of the discharge.

5 (d) (1) (A) Each person who is subject to subdivision (a) or
6 (c) shall submit an annual fee according to a fee schedule
7 established by the state board.

8 (B) The total amount of annual fees collected pursuant to this
9 section shall equal that amount necessary to recover costs incurred
10 in connection with the issuance, administration, reviewing,
11 monitoring, and enforcement of waste discharge requirements and
12 waivers of waste discharge requirements.

13 (C) Recoverable costs may include, but are not limited to, costs
14 incurred in reviewing waste discharge reports, prescribing terms
15 of waste discharge requirements and monitoring requirements,
16 enforcing and evaluating compliance with waste discharge
17 requirements and waiver requirements, conducting surface water
18 and groundwater monitoring and modeling, analyzing laboratory
19 samples, *adopting, reviewing, and revising water quality control*
20 *plans and state policies for water quality control*, and reviewing
21 documents prepared for the purpose of regulating the discharge of
22 waste, and administrative costs incurred in connection with
23 carrying out these actions.

24 (D) In establishing the amount of a fee that may be imposed on
25 ~~any~~ a confined animal feeding and holding operation pursuant to
26 this section, including, but not limited to, ~~any~~ a dairy farm, the
27 state board shall consider all of the following factors:

28 (i) The size of the operation.

29 (ii) Whether the operation has been issued a permit to operate
30 pursuant to Section 1342 of Title 33 of the United States Code.

31 (iii) Any applicable waste discharge requirement or conditional
32 waiver of a waste discharge requirement.

33 (iv) The type and amount of discharge from the operation.

34 (v) The pricing mechanism of the commodity produced.

35 (vi) Any compliance costs borne by the operation pursuant to
36 state and federal water quality regulations.

37 (vii) Whether the operation participates in a quality assurance
38 program certified by a regional water quality control board, the
39 state board, or a federal water quality control agency.

1 (2) (A) Subject to subparagraph (B), ~~any~~ *the* fees collected
2 pursuant to this section shall be deposited in the Waste Discharge
3 Permit Fund, which is hereby created. The money in the fund is
4 available for expenditure by the state board, upon appropriation
5 by the Legislature, solely for the purposes of carrying out this
6 division.

7 (B) (i) Notwithstanding subparagraph (A), the fees collected
8 pursuant to this section from stormwater dischargers that are
9 subject to a general industrial or construction stormwater permit
10 under the national pollutant discharge elimination system (NPDES)
11 shall be separately accounted for in the Waste Discharge Permit
12 Fund.

13 (ii) Not less than 50 percent of the money in the Waste
14 Discharge Permit Fund that is separately accounted for pursuant
15 to clause (i) is available, upon appropriation by the Legislature,
16 for expenditure by the regional board with jurisdiction over the
17 permitted industry or construction site that generated the fee to
18 carry out stormwater programs in the region.

19 (iii) Each regional board that receives money pursuant to clause
20 (ii) shall spend not less than 50 percent of that money solely on
21 stormwater inspection and regulatory compliance issues associated
22 with industrial and construction stormwater programs.

23 (3) ~~Any~~ A person who would be required to pay the annual fee
24 prescribed by paragraph (1) for waste discharge requirements
25 applicable to discharges of solid waste, as defined in Section 40191
26 of the Public Resources Code, at a waste management unit that is
27 also regulated under Division 30 (commencing with Section 40000)
28 of the Public Resources Code, shall be entitled to a waiver of the
29 annual fee for the discharge of solid waste at the waste management
30 unit imposed by paragraph (1) upon verification by the state board
31 of payment of the fee imposed by Section 48000 of the Public
32 Resources Code, and provided that the fee established pursuant to
33 Section 48000 of the Public Resources Code generates revenues
34 sufficient to fund the programs specified in Section 48004 of the
35 Public Resources Code and the amount appropriated by the
36 Legislature for those purposes is not reduced.

37 (e) Each person *that* discharges waste in a manner regulated by
38 this section shall pay an annual fee to the state board. The state
39 board shall establish, by regulation, a timetable for the payment
40 of the annual fee. If the state board or a regional board determines

1 that the discharge will not affect, or have the potential to affect,
2 the quality of the waters of the state, all or part of the annual fee
3 shall be refunded.

4 (f) (1) The state board shall adopt, by emergency regulations,
5 a schedule of fees authorized under subdivision (d). The total
6 revenue collected each year through annual fees shall be set at an
7 amount equal to the revenue levels set forth in the Budget Act for
8 this activity. The state board shall automatically adjust the annual
9 fees each fiscal year to conform with the revenue levels set forth
10 in the Budget Act for this activity. If the state board determines
11 that the revenue collected during the preceding year was greater
12 than, or less than, the revenue levels set forth in the Budget Act,
13 the state board may further adjust the annual fees to compensate
14 for the over and under collection of revenue.

15 (2) The emergency regulations adopted pursuant to this
16 subdivision, any amendment thereto, or subsequent adjustments
17 to the annual fees, shall be adopted by the state board in accordance
18 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
19 Division 3 of Title 2 of the Government Code. The adoption of
20 these regulations is an emergency and shall be considered by the
21 Office of Administrative Law as necessary for the immediate
22 preservation of the public peace, health, safety, and general welfare.
23 Notwithstanding Chapter 3.5 (commencing with Section 11340)
24 of Part 1 of Division 3 of Title 2 of the Government Code, any
25 emergency regulations adopted by the state board, or adjustments
26 to the annual fees made by the state board pursuant to this section,
27 shall not be subject to review by the Office of Administrative Law
28 and shall remain in effect until revised by the state board.

29 (g) The state board shall adopt regulations setting forth
30 reasonable time limits within which the regional board shall
31 determine the adequacy of a report of waste discharge submitted
32 under this section.

33 (h) Each report submitted under this section shall be sworn to,
34 or submitted under penalty of perjury.

35 (i) The regulations adopted by the state board pursuant to
36 subdivision (f) shall include a provision that annual fees shall not
37 be imposed on those who pay fees under the national pollutant
38 discharge elimination system until the time when those fees are
39 again due, at which time the fees shall become due on an annual
40 basis.

1 (j) ~~Any~~A person operating or proposing to construct an oil, gas,
2 or geothermal injection well subject to paragraph (3) of subdivision
3 (a); shall not be required to pay a fee pursuant to subdivision (d);
4 if the injection well is regulated by the Division of Oil and Gas of
5 the Department of Conservation, in lieu of the appropriate
6 California regional water quality control board, pursuant to the
7 memorandum of understanding, entered into between the state
8 board and the Department of Conservation on May 19, 1988. This
9 subdivision shall remain operative until the memorandum of
10 understanding is revoked by the state board or the Department of
11 Conservation.

12 (k) In addition to the report required by subdivision (a), before
13 ~~any~~ a person discharges mining waste, the person shall first submit
14 both of the following to the regional board:

15 (1) A report on the physical and chemical characteristics of the
16 waste that could affect its potential to cause pollution or
17 contamination. The report shall include the results of all tests
18 required by regulations adopted by the board, any test adopted by
19 the Department of Toxic Substances Control pursuant to Section
20 25141 of the Health and Safety Code for extractable, persistent,
21 and bioaccumulative toxic substances in a waste or other material,
22 and any other tests that the state board or regional board may
23 require, including, but not limited to, tests needed to determine
24 the acid-generating potential of the mining waste or the extent to
25 which hazardous substances may persist in the waste after disposal.

26 (2) A report that evaluates the potential of the discharge of the
27 mining waste to produce, over the long term, acid mine drainage,
28 the discharge or leaching of heavy metals, or the release of other
29 hazardous substances.

30 (l) Except upon the written request of the regional board, a report
31 of waste discharge need not be filed pursuant to subdivision (a) or
32 (c) by a user of recycled water that is being supplied by a supplier
33 or distributor of recycled water for whom a master recycling permit
34 has been issued pursuant to Section 13523.1.

35 *SEC. 30. Section 27 of Chapter 718 of the Statutes of 2010 is*
36 *amended to read:*

37 Sec. 27. (a) It is the intent of the Legislature that a zero-based
38 budget for programs and expenditures related to water and
39 ecosystem restoration activities in the Sacramento-San Joaquin
40 Delta will enable the Legislature to better understand the overall

1 size of the state’s investment in the Sacramento-San Joaquin Delta
2 and how funds are being allocated and prioritized for particular
3 programs and functions.

4 (b) (1) On or before April 1, ~~2011~~ 2012, the Governor shall
5 submit to the Legislature a report on the budget for the ~~2011–12~~
6 2012–13 fiscal year for all state agency programs that implement
7 water and ecosystem restoration activities in the Sacramento-San
8 Joaquin Delta, including activities related to the CALFED
9 Bay-Delta Program, using a zero-based budget methodology.

10 (2) The budget submitted pursuant to this subdivision shall
11 complement the budget display for the CALFED Bay-Delta
12 Program budget annually submitted by the Governor in conjunction
13 with the budget, and shall show all state agency expenditures that
14 implement water and ecosystem restoration activities in the
15 Sacramento-San Joaquin Delta. All state expenditures reported in
16 the budget for the CALFED Bay-Delta Program for the ~~2011–12~~
17 2012–13 fiscal year shall be reported using a zero-based budget
18 methodology, regardless of whether the appropriation authority is
19 continuous or on an annual basis.

20 (3) *In developing a zero-based budget for the CALFED*
21 *Bay-Delta Program, the Delta Stewardship Council shall conduct*
22 *a programmatic review of CALFED Bay-Delta Program*
23 *expenditures for consistency with the Delta Plan developed*
24 *pursuant to Section 85300 of the Water Code.*

25 (c) As used in the section, “zero-based budget methodology”
26 means determining a budget by starting with a base of zero dollars
27 (\$0) and adding dollar amounts necessary to conduct specific
28 activities and operations. A zero-based budget shall set forth all
29 of the following:

30 (1) Each activity performed for which an appropriation is made
31 or is requested.

32 (2) The legal basis for performing the activity.

33 (3) An itemized justification for the amount requested to perform
34 the activity.

35 *SEC. 31. There is hereby appropriated one thousand dollars*
36 *(\$1,000) from the State Parks and Recreation Fund to the*
37 *Department of Parks and Recreation for administrative costs.*

38 *SEC. 32. This act addresses the fiscal emergency declared and*
39 *reaffirmed by the Governor by proclamation on January 20, 2011,*

1 *pursuant to subdivision (f) of Section 10 of Article IV of the*
2 *California Constitution.*

3 *SEC. 33. This act is a bill providing for appropriations related*
4 *to the Budget Bill within the meaning of subdivision (e) of Section*
5 *12 of Article IV of the California Constitution, has been identified*
6 *as related to the budget in the Budget Bill, and shall take effect*
7 *immediately.*

8 *SEC. 34. This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety within*
10 *the meaning of Article IV of the Constitution and shall go into*
11 *immediate effect. The facts constituting the necessity are:*

12 *In order to make the necessary statutory changes to implement*
13 *the Budget Act of 2011 at the earliest possible time, it is necessary*
14 *that this act take effect immediately.*

15 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
16 ~~changes relating to the Budget Act of 2011.~~