AMENDED IN SENATE JUNE 25, 2012

AMENDED IN SENATE JUNE 13, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL No. 1466

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

January 10, 2012

~~An act to amend Sections 17206 and 19604 of the Business and Professions Code, to amend Section 1936 of the Civil Code, to amend Section 318 of the Corporations Code, to amend Section 57031 of the Food and Agricultural Code, to amend Sections 3502.5, 3507.1, 3507.3, 3513, 3527, 3541.3, 3563, 8240, 8241, 8245, 8879.58, 8879.59, 10210, 11139.5, 11270, 11532, 11538, 11540, 11544, 11546, 12804, 12901, 12903, 12904, 12905, 12906, 12925, 12930, 12935, 12944, 12946, 12947.5, 12950, 12950.1, 12963.5, 12965, 12966, 12970, 12973, 12975, 12980, 12981, 12981.1, 12985, 12987, 12988, 12989.1, 12989.2, 12990, 13071, 19704, 19815, 50085.5, 71632.5, 71636.1, 71636.3, 71637, and 76104.7 of, to add Sections 8169.7,12531, 12907, 13300.5, 15849.65, and 16340 to, to add Article 3 (commencing with Section 10270) to Chapter 1 of Part 2 of Division 2 of Title 2 of, to add Division 4.5 (commencing with Section 3600) to Title 1 of, to repeal Sections 11535, 11536, 11537, 11543, 12967, 12968, 12969, 12972, 12987.1, 12989, and 50087 of, to repeal Article 1 (commencing with Section 8260) of Chapter 3.5 of Division 1 of Title 2 of, to repeal Chapter 1 (commencing with Section 14995) of Part 5.6 of Division 3 of Title 2 of, and to repeal and amend Sections 5924 and 15849.6 of, the Government Code, to amend Section 102346 of the Health and Safety Code, to amend Section~~

~~11770 of the Insurance Code, to amend Sections 56, 62.9, 138.7, 150, 151, 152, 153, 156, 511, 515.5, 515.6, 1202, 1773.3, 1776, 1777.5, 1777.7, 2012, 2013, 2686, 3072, 3073, 6332, 6401.7, 6409, 6410, 6411, 6413, and 6413.2 of, to amend the heading of Chapter 7 (commencing with Section 150) of Division 1 of, to add Chapter 4.5 (commencing with Section 108) to Division 1 of, and to repeal Sections 65, 3099, 3099.2, 3099.3, 3099.4, and 3099.5 of, and to repeal Chapter 9 (commencing with Section 1137) of Part 3 of Division 2 of, the Labor Code, to amend Section 972.1 of the Military and Veterans Code, to amend Section 422.92, 13519, 13776, 13777.2, and 13836.1 of the Penal Code, to amend Section 6611 of the Public Contract Code, to amend Sections 25051, 28850, 30750, 30751, 40120, 50120, 70120, 90300, 99561, 95650, 98162.5, 100301, 101341, 102401, 103401, and 125521 of the Public Utilities Code, to amend Section 19533 of, and to repeal Article 6 (commencing with Section 19290) of Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, to amend Section 401 of the Unemployment Insurance Code, to amend Section 4.2 of the Fresno Metropolitan Transit District Act (Chapter 1932 of the Statutes of 1961), and to amend Sections 13.90 and 13.91 of the West Bay Rapid Transit Authority Act (Chapter 104 of the First Extraordinary Session of the Statutes of 1964), relating to state and local government, and making an appropriation therefor, to take effect immediately, bill related to the budget.~~ *An act to amend Section 17206 of the Business and Professions Code, to amend Section 1936 of the Civil Code, to amend Sections 8879.58, 8879.59, 11270, 11546, 13071, 17581, 17617, 19849, 19851, and 76104.7 of, to amend and repeal Section 5924 of, to amend, repeal, and add Section 51298 of, to add Sections 8169.7, 12531, and 13300.5 to, to add and repeal Section 15849.65 of, to repeal Section 50087 of, and to repeal and amend Section 15849.6 of, the Government Code, to amend Section 11873 of the Insurance Code, to amend Section 62.9 of the Labor Code, to amend Section 972.1 of the Military and Veterans Code, to amend Section 6611 of the Public Contract Code, and to amend Sections 8352.3, 8352.4, 8352.5, 8352.6, and 19533 of, and to repeal Article 2 (commencing with Section 19290) of Chapter 5 of Part 10.2 of Division 2 of, the Revenue and Taxation Code, and to amend Item 7300-001-0001 of Section 2.00 of the Budget Act of 2012, relating to state government, and making an appropriation therefor, to take effect immediately, bill related to the budget.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1466, as amended, Committee on Budget. State government.

~~(1) Existing law establishes the California State Mediation and Conciliation Service (CSMCS) within the Department of Industrial Relations to investigate and mediate labor disputes, as specified. Existing law governs public transportation labor disputes.~~

~~This bill would repeal and recast those provisions and establish the CSMCS within the Public Employment Relations Board (PERB). The bill would vest PERB with all of the powers, duties, purposes, responsibilities and jurisdiction vested in the Department of Industrial Relations and exercised or carried out through CSMCS.~~

~~(2)~~

(1) Existing law regulates consumer rental car agreements and authorizes rental car companies to collect a customer facility charge based on a fee required by an airport operated by specified entities. Existing law also directs those airports to complete independent audits to substantiate the need for the fee prior to the collection of these fees from rental companies. Existing law requires the Controller to review these independent audits and report its conclusions to the Legislature, as specified. Existing law also requires the Controller to be reimbursed for these reviews by the airport being audited.

This bill would remove the provisions requiring the Controller to review, and report to the Legislature regarding, the independent audits described above.

~~(3)~~

(2) Existing law requires every city, county, or city and county that has at least 5,000 residents or in which 5% of the population is of Filipino ancestry or ethnic origin and that conducts a survey as to the ancestry or ethnic origin of its employees, or that maintains any statistical tabulation of minority group employees, to categorize employees whose ancestry or ethnic origin is Filipino as Filipinos in the survey or tabulation.

This bill would repeal that requirement.

~~(4)~~

(3) Existing law requires the Department of General Services to offer for sale land that is declared excess or is declared surplus by the Legislature, and that is not needed by any state agency, to local agencies and private entities and individuals, subject to specified conditions.

This bill would authorize the Department of General Services to sell all or a portion of specified parcels of property located in the City of Sacramento that are leased by the department to the Capitol Area Development Authority, subject to specified criteria. The bill would require the proceeds of that sale to be deposited into the General Fund or the Deficit Recovery Fund, as specified.

~~(5)~~

(4) Existing law requires a $3 state-only penalty to be levied in each county for every $10, or part of $10, of a fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, as specified.

This bill would increase the amount of the state-only penalty to $4 for every $10, or part of $10, of those payments.

~~(6)~~

(5) Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, approved by the voters as Proposition 1B at the November 7, 2006, general election, authorizes the issuance of $19.925 billion of general obligation bonds for specified purposes. Existing law specifies the responsibilities of the California Emergency Management Agency (Cal EMA) with respect to the allocation of bond funds appropriated from the Transit System Safety, Security, and Disaster Response Account.

This bill would require Cal EMA, in prioritizing the funding of projects, to additionally prioritize projects that demonstrate the ability and intent to expend a significant percentage of project funds within 6 months. During each fiscal year a transit agency or transit operator receives funds, the bill would authorize Cal EMA to monitor project expenditures.

~~(7) Existing law establishes in state government the Commission on Uniform State Laws, with a specified membership.~~

~~This bill would transfer the Commission on Uniform State Laws to the Legislative Counsel Bureau, and would make conforming changes in law.~~

~~(8) Existing law establishes the Technology Services Board within the Office of Technology Services. Existing law requires the Secretary of California Technology to submit, for board consideration, proposed rates for Office of Technology Services' services. Existing law requires the secretary, prior to submitting the rates to the board, to first submit the proposed rates to the Department of Finance, and requires the department to evaluate the reasonableness of the proposed rates.~~

~~This bill would repeal the provisions establishing the Technology Services Board, and make various conforming changes. This bill would also require the secretary to instead submit the proposed rates directly to the Director of Finance, and would require the Director of Finance to approve the proposed rates based on certain standards and criteria.~~

~~(9)~~

(6) Existing law establishes the California Technology Agency within state government, and requires the office to carry out specified duties relating to creating and managing the technology policy of the state. Existing law requires the agency to be responsible for the approval and oversight of information technology projects.

This bill would require a state department to get written approval from the California Technology Agency to procure oversight services for information technology projects unless otherwise required by law.

~~(10)~~

(7) Existing law requires the Department of Finance to certify annually to the Controller the amount determined to be the fair share of administrative costs due and payable from each state agency and to certify to the Controller any amount redetermined to be the fair share of administrative costs due and payable from a state agency. Existing law requires the Controller to notify a state agency of that amount, and, unless the state agency requests that those payments be deferred, to transfer that amount from specified funds to the Central Service Cost Recovery Fund. Existing law defines "administrative costs" as the amounts expended by various specified state entities for supervision or administration of the state government or for services to the various state agencies.

This bill would modify the definition of administrative costs to include amounts expended by the Financial Information System for California.

~~(11)~~

(8) Existing law requires the Director of Finance, in coordinating the internal auditors of state agencies, to ensure that these auditors utilize the "Standards for the Professional Practices of Internal Auditing."

This bill would also require the director to be responsible for coordinating state agency internal audits and ~~indentifying~~ *identifying* when agencies are required to comply with federally mandated audits.

~~(12)~~

(9) Existing law requires the Department of Finance, the Controller, the Treasurer, and the Department of General Services to collaboratively develop, implement, utilize, maintain, and operate the Financial

Information System for California ~~(FISCAL)~~ *(FISCal)* as a single integrated financial management system, as specified. Existing law requires the fiscal Project Office in the Department of Finance to implement these provisions until the Office of the Financial Information System is established.

This bill would require the FISCal Project Office to report to the Legislature, by February 15 of each year, an update on the project, as specified. The provisions of the bill would remain in effect only until a ~~post-implementation~~ *postimplementation* evaluation report has been approved by the California Technology Agency.

~~(13)~~

(10) Existing law sets forth the duties and powers of the Treasurer in the sale of state bonds. Moneys are continuously appropriated from the General Fund in an annual amount necessary to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state pursuant to any credit enhancement or liquidity agreement entered into by the state, as specified, for bonds payable pursuant to an appropriation from the General Fund. Existing law, until June 30, 2013, prohibits the amount appropriated for these fees, costs, and other similar expenses from exceeding 3% of the original principal amount of the bonds.

This bill would repeal the inoperative date of those provisions, thereby extending the 3% interest rate indefinitely, thereby making an appropriation.

~~(14) Existing law establishes the Local Agency Investment Fund, authorizes a local government having money in its treasury not required for immediate needs to remit it to the Treasurer for deposit in that fund for the purpose of investment, and prescribes the handling of that money.~~

~~This bill would establish the Voluntary Investment Program Fund within the state Treasury for the receipt of voluntary deposits from local entities, as specified. The bill would provide that the deposits in the fund may be used only to cover short-term cash needs of the state, as specified.~~

~~(15) Existing law creates the Electronic Funds Transfer Task Force, consisting of 8 members appointed by specified agencies, boards, departments, and offices.~~

~~This bill would eliminate the Electronic Funds Transfer Task Force.~~

~~(16)~~

(11) Existing law, the State Building Construction Act of 1955, authorizes the State Public Works Board to acquire and construct public

buildings for use by state agencies, when authorized by a separate act or appropriation enacted by the Legislature. Existing law authorizes the board to issue bonds, notes, or other obligations to finance the acquisition or construction of a public building, facility, or equipment as authorized by the Legislature, and any additional amount authorized by the board to pay the cost of financing.

This bill would revise and recast that provision to instead authorize the State Public Works Board to issue bonds, notes, or other obligations to finance the acquisition, design, or construction of a public building as authorized by the Legislature, and any additional amount authorized by the board to pay the cost of financing, including interest payable on any interim loan or interim financing for the public building.

~~(17) Existing law establishes the Department of Industrial Relations, divided into 6 divisions known as the Division of Worker's Compensation, the Division of Occupational Safety and Health, the Division of Labor Standards Enforcement, the Division of Labor Statistics and Research, the Division of Apprenticeship Standards, and the State Compensation Insurance Fund. Under existing law, the Division of Labor Statistics and Research collects, compiles, and presents facts and statistics relating to the condition of labor in the state. Existing law provides that, except as specified, no use shall be made in the reports of the Labor Statistics and Research Division of the names of persons supplying information and makes any agent or employee of the division who violates this provision guilty of a misdemeanor.~~

~~This bill would abolish the Division of Labor Statistics and Research and transfer the duties of that division to the Division of Occupational Health and Safety and the Division of Labor Standards Enforcement and make conforming changes. The bill would broaden the application of the misdemeanor referenced above to any agent or employee of the department, thereby creating a state-mandated local program.~~

~~(18) Existing law requires the Division of Apprenticeship Standards to establish and validate minimum standards for the competency and training of electricians through a system of testing and certification.~~

~~This bill would recast the electrician certification responsibilities of the Division of Apprenticeship Standards under the Division of Labor Standards Enforcement and make conforming changes.~~

~~(19) Existing law provides that the Department of Industrial Relations shall monitor and enforce compliance with applicable prevailing wage requirements for any public works project paid for out of public funds. Existing law provides that any awarding agency whose public works~~

~~contract is subject to provisions regulating the employment of apprentices upon public works shall send a copy of the award to the Division of Apprenticeship Standards.~~

~~This bill would instead require that an awarding agency whose public works contract falls within the jurisdiction of specified monitoring and enforcement compliance provisions, is subject to provisions regulating the employment of apprentices upon public works, or is subject to any other provision providing for the payment of fees to the department for enforcing prevailing wage requirements send a copy of the award to the department.~~

~~(20) Existing law provides that a contractor or subcontractor who is determined to have knowingly committed a serious violation of specified provisions may be denied the right to bid on or be awarded or perform work on any public works for a period of time. Existing law provides that an affected contractor, subcontractor, or responsible officer may obtain a review of the determination imposing the debarment or civil penalty within 30 days.~~

~~This bill would instead allow for the request of the review within 60 days and make other related changes.~~

~~(21) Existing law requires that the Director of Industrial Relations levy and collect assessments from employers in an amount determined by the director, as specified. In that connection, existing law requires the director to include in the total assessment amount the Department of Industrial Relations' costs for administering the assessment, including the collections process and the cost of reimbursing the Franchise Tax Board or another agency or department for its cost of collection activities. Existing law requires the Department of Industrial Relations to enter into an agreement with the Franchise Tax Board that transfers responsibility from the Department of Industrial Relations to the Franchise Tax Board for the collection of delinquent fees, wages, penalties, and costs, and any interest.~~

~~This bill would repeal the requirement that the Department of Industrial Relations enter into an agreement with the Franchise Tax Board to transfer responsibility from the Department of Industrial Relations to the Franchise Tax Board for the collection of delinquent fees, wages, penalties, and costs, and any interest, including the assessments from employers in an amount determined by the Director of Industrial Relations to be sufficient to fund specified workers' compensation programs implemented in the state and any penalties. This bill would require the Director of Industrial Relations to include~~

~~in that total assessment amount the cost of reimbursing the Employment Development Department or another agency or department for its cost of collection activities, as provided.~~

~~(22) Existing law establishes the California State Mediation and Conciliation Service (CSMCS) within the Department of Industrial Relations to investigate and mediate labor disputes, as specified. Existing law governs public transportation labor disputes.~~

~~This bill would repeal and recast those provisions and establish the CSMCS within the Public Employment Relations Board (PERB). The bill would vest PERB with all of the powers, duties, purposes, responsibilities and jurisdiction vested in the Department of Industrial Relations and exercised or carried out through CSMCS.~~

~~(23) The California Fair Employment and Housing Act establishes the Department of Fair Employment and Housing in the State and Consumer Services Agency, with the power and duties to, among other things, receive, investigate, and conciliate complaints relating to employment and housing discrimination. The California Fair Employment and Housing Act also establishes the Fair Employment and Housing Commission within the State and Consumer Services Agency, with the powers and duties to, among other things, conduct hearings, subpoena witnesses, create or provide financial or technical assistance to advisory agencies and conciliation councils, publish opinions and publications, and conduct mediations at the request of the Department of Fair Employment and Housing.~~

~~This bill would eliminate the Fair Employment and Housing Commission and would transfer the duties of the commission to the Department of Fair Employment and Housing. The bill would create within the department a Fair Employment and Housing Council that would succeed to the powers and duties of the former commission. The bill would establish the Fair Employment and Housing Enforcement and Litigation Fund in the State Treasury to be administered by the department, subject to appropriation, for purposes of deposit of attorney's fees and costs awarded to the department in specified civil actions. The bill would authorize transfer of those funds to the General Fund upon a specified circumstance. The bill would expand specified powers of the department related to complaints, mediations, and prosecutions, and would provide mandatory dispute resolution at no cost to the parties involved, as specified. The bill would eliminate a specified cap of actual damages under the act, and would instead require~~

~~certain actions be brought in court by civil action, rather than by accusation by the department.~~

~~(24)~~

(12) Existing law, until January 1, 2013, requires a mortgagee, trustee, beneficiary, or authorized agent to comply with certain procedures in dealing with a borrower who is in default prior to filing a notice of default and to explore options for the borrower to avoid foreclosure, as specified. Existing law provides that a violation of these provisions would result in specified civil penalties, including penalties for unfair business practices. Existing law provides that civil penalties collected for unfair business practice violations brought by the Attorney General are deposited in the Unfair Competition Law Fund within the General Fund.

This bill would establish the National Mortgage Special Deposit Fund in the State Treasury as a continuously appropriated fund and would require certain direct payments made to the state under the National Mortgage Settlement to be deposited in the fund for allocation by the Director of Finance, as specified. This bill would further authorize the Director of Finance to allocate moneys from the fund to offset General Fund expenditures during the 2011–12, 2012–13, and 2013–14 fiscal years for purposes consistent with the National Mortgage Settlement. The bill would also require that civil penalties collected under the National Mortgage Settlement be deposited into the Unfair Competition Fund, and be continuously appropriated to the Department of Justice to offset the General Fund costs incurred by the department, thereby also making an appropriation.

~~(25)~~

(13) Existing law requires the Department of Veterans Affairs to disburse funds, appropriated to the department for the purpose of supporting county veterans service offices pursuant to the annual Budget Act, on a pro rata basis, to counties that comply with certain conditions. Existing law requires the Department of Veterans Affairs to determine annually the amount of new or increased monetary benefits paid to eligible veterans by the federal government attributable to the assistance of county veterans service offices and requires the department to prepare and transmit its determination for the preceding fiscal year to the Department of Finance and the Legislature, as specified.

This bill would require the Department of Veterans Affairs, by June 30, 2013, to develop a performance-based formula that will incentivize county veterans service offices to perform workload units, as defined, that help veterans access federal compensation and pension benefits and other benefits, in order to maximize the amount of federal money received by California veterans. This bill would require the department to conduct a review of the high-performing and low-performing county veterans service offices and based on this review, produce a best-practices manual for county veterans service offices by June 30, 2013.

~~(26) Existing law creates, in the Employment Development Department, the California Unemployment Insurance Appeals Board, consisting of 7 members, 2 of whom are required to be attorneys at law admitted to practice in California. Existing law authorizes the Governor to appoint 5 of the 7 members, as specified.~~

~~This bill would reduce the number of members of this board to 5 and reduce the number of members the Governor may appoint to 3. This bill would require all members of the board to be attorneys at law admitted to practice in any state of the United States with either a minimum of one year of experience in conducting judicial or administrative hearings or 5 years of experience in the practice of law. This bill would provide that these amendments apply to appointments made on or after January 1, 2013.~~

~~(27) Existing law creates within state government the Commission on the Status of Women, consisting of 17 members, including public members appointed by specified executive and legislative officials. Existing law sets forth the powers and duties of the commission, and requires the commission to study certain topics. Existing law requires the commission to act as a information center on the status of women and women's educational, employment, and other related needs.~~

~~This bill would rename the Commission on the Status of Women the Commission on the Status of Women and Girls, and make various conforming changes to that effect. This bill would require the appointing powers, in making appointments of public members to the commission, to make every effort to ensure that there is a geographic balance of representation on the commission. This bill would modify the topics that the commission is required to study by adding some and removing others, including, among others, adding gender equity in the media. This bill would instead require the commission to act as a central information on issues that affect the lives of women and girls. This bill would require the commission to develop a strategy to attract financial support from private donors.~~

~~This bill would state that certain provisions of this bill will prevail over a specified section of the Governor's Reorganization Plan No. 2 of 2012, regardless of the dates on which this bill and that Plan take effect.~~

(14) Existing law, known as the Capital Investment Incentive Program, authorizes, until January 1, 2017, a city, county, or city and county to pay capital investment incentive amounts to a requesting proponent of a "qualified manufacturing facility," as defined. Existing law also requires the Business, Transportation and Housing Agency to certify qualified manufacturing facilities for purposes of these provisions and to carry out various oversight duties, including, but not limited to, reporting specified information to the Legislature.

This bill would, until June 30, 2013, expand these provisions to include a "qualified research and development facility," modify and provide additional definitions, and transfer the duties of the Business, Transportation and Housing Agency to the Governor's Office of Business and Economic Development. This bill would, on July 1, 2013, restore these provisions to existing law.

(15) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including school districts, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions.

Existing law provides that no local agency or school district shall be required to implement or give effect to any statute or executive order, or portion thereof that imposes a mandate during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if specified conditions are met, including that the statute or executive order, or portion thereof, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year.

This bill would provide that all state-mandated local programs suspended in the Budget Act for the 2012-13 fiscal year will also be suspended in the 2013-14 and 2014-15 fiscal years.

(16) Existing law also requires that the total amount due to each city, county, city and county, and special district, for which the state has determined that reimbursement is required under the California Constitution, be appropriated for payment to these entities over a period of not more than 15 years, commencing with the Budget Act for the

2006–07 fiscal year and concluding with the Budget Act for the 2020–21 fiscal year.

This bill would prohibit appropriations for payment of reimbursement claims pursuant to these provisions for the 2012-13, 2013-14, and 2014-15 fiscal years.

(17) Existing law imposes an excise tax on motor vehicle fuel (gasoline). Existing law, as a result of the elimination of the sales tax on gasoline effective July 1, 2010, provides for a commensurate increase in the excise tax on gasoline. Article XIX of the California Constitution requires gasoline excise tax revenues from motor vehicles traveling upon public streets and highways to be deposited in the Highway Users Tax Account, for allocation to city, county, and state transportation purposes. Existing law generally provides for statutory allocation of gasoline excise tax revenues attributable to other modes of transportation, including aviation, boats, agricultural vehicles, and off-highway vehicles, to particular accounts and funds for expenditure on purposes associated with those other modes. Expenditure of the gasoline excise tax revenues attributable to those other modes is not restricted by Article XIX of the California Constitution.

This bill, with respect to the increase in gasoline excise taxes as a result of the elimination of the sales tax on gasoline, would instead transfer the revenues attributable to aviation, boats, agricultural vehicles, and off-highway vehicles to the General Fund, commencing July 1, 2012. The bill, with respect to these revenues already transferred to the particular nonhighway accounts and funds in the 2010–11 and 2011–12 fiscal years, would also transfer those revenues to the General Fund.

(18) Existing law states that it is the policy of the state that the workweek of the state employee shall be 40 hours, and the workday of state employees 8 hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different state agencies.

This bill would require a state employee, except as specified, for the period from July 1, 2012, to June 30, 2013, inclusive, either as required by an applicable memorandum of understanding or by the direction of the Department of Human Resources for excluded employees, to participate in the Personal Leave Program 2012 (PLP 2012 Program), under which each employee would receive a reduction in pay not greater than 5% in exchange for 8 hours of PLP 2012 Program leave credits per month.

(19) Existing law requires the department to adopt rules governing hours of work and overtime compensation and the keeping of related records, except that conflicting provisions of a memorandum of understanding are controlling, as specified.

The bill would require the department, notwithstanding any conflicting provisions of a memorandum of understanding, to adopt a plan for the period from July 1, 2012, to June 30, 2013, inclusive, by which all state employees, except as specified, who are not subject to the PLP 2012 Program, as described above, shall be furloughed for one workday per calendar month, and to adopt rules for the implementation, administration, and enforcement of this furlough plan.

(20) Existing law provides that the State Compensation Insurance Fund shall not be subject to the provisions of the Government Code made applicable to state agencies generally or collectively, unless the provision specifically names the fund as an agency to which it applies. Existing law also provides that employee positions funded by the State Compensation Insurance Fund are exempt from any hiring freezes and staff cutbacks otherwise required by law.

This bill would provide that employees of the fund shall, without limitation, be subject to any and all reductions in state employee compensation imposed by the Legislature on other state employees for the period from July 1, 2012, to June 30, 2013, inclusive, regardless of the means adopted to effect those reductions. With the exception of those reductions, the bill would further provide that if any of these provisions, or a practice or procedure adopted pursuant to these provisions, conflicts with a memorandum of understanding, the memorandum of understanding shall be controlling, as specified.

(21) Existing law authorizes the Department of General Services to, relative to contracts for goods, services, information technology, and telecommunications, use a negotiation process if the department finds that certain conditions exist, as specified.

This bill would authorize, until January 1, 2018, the California Technology Agency to utilize that negotiation process for the purpose of procuring information technology and telecommunications goods and services on behalf of state departments and information technology projects. The bill would require an annual report to the Legislature, as specified.

Existing law establishes a workers' compensation system, administered by the Administrative Director of the Division of Workers' Compensation, to compensate an injured employee for injuries sustained *in the course of his or her employment. Existing law requires that the Director of Industrial Relations levy and collect assessments from employers in an amount determined by the director to be sufficient to fund specified workers' compensation programs implemented in the state. In that connection, existing law requires the director to include in the total assessment amount the Department of Industrial Relations' costs for administering the assessment, including the collections process and the cost of reimbursing the Franchise Tax Board or another agency or department for its cost of collection activities.*

Existing law requires the Department of Industrial Relations to enter into an agreement with the Franchise Tax Board that transfers responsibility from the Department of Industrial Relations to the Franchise Tax Board for the collection of delinquent fees, wages, penalties, and costs, and any interest, including the assessments from employers in an amount determined by the Director of Industrial Relations to be sufficient to fund specified workers' compensation programs implemented in the state and any penalties.

Existing law also authorizes the Department of Industrial Relations to enter into an agreement with the Employment Development Department that provides for the transfer of all or part of the responsibility from the Department of Industrial Relations, or any office or division within that department, to the Employment Development Department for the collection of assessments, as specified, arising out of the enforcement of any law within the jurisdiction of the Department of Industrial Relations or any office or division within that department, as provided.

This bill would repeal the requirement that the Department of Industrial Relations enter into an agreement with the Franchise Tax Board to transfer responsibility from the Department of Industrial Relations to the Franchise Tax Board for the collection of delinquent fees, wages, penalties, and costs, and any interest, including the assessments from employers in an amount determined by the Director of Industrial Relations to be sufficient to fund specified workers' compensation programs implemented in the state and any penalties. This bill would require the Director of Industrial Relations to include in that total assessment amount the cost of reimbursing the Employment Development Department or another agency or department for its cost of collection activities, as provided. This bill would make other conforming changes.

~~This~~

(22) This bill would appropriate $1,000 from the General Fund to the Department of Finance for purposes of implementing this bill, thereby making an appropriation.

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~This~~

(23) The Budget Bill, enacted as the Budget Act of 2012, would make appropriations for the support of state government for the 2012–13 fiscal year.

This bill would amend the Budget Act of 2012 by revising an item of appropriation in the Budget Act of 2012.

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

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: ~~yes~~ *no*.

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

SECTION 1. Section 17206 of the Business and Professions Code is amended to read:

17206. Civil Penalty for Violation of Chapter

(a) Any person who engages, has engaged, or proposes to engage in unfair competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars ($2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General, by any district attorney, by any county counsel authorized by agreement with the district attorney in actions involving violation of a county ordinance, by any city attorney of a city having a population in excess of 750,000, by any city attorney of any city and county, or, with the consent of the district attorney, by a city prosecutor in any city having a full-time city prosecutor, in any court of competent jurisdiction.

(b) The court shall impose a civil penalty for each violation of this chapter. In assessing the amount of the civil penalty, the court shall consider any one or more of the relevant circumstances presented by any of the parties to the case, including, but not limited to, the following: the nature and seriousness of the misconduct, the number of violations, the persistence of the misconduct, the length of time over which the misconduct occurred, the willfulness of the defendant's misconduct, and the defendant's assets, liabilities, and net worth.

(c) If the action is brought by the Attorney General, one-half of the penalty collected shall be paid to the treasurer of the county in which the judgment was entered, and one-half to the General Fund. If the action is brought by a district attorney or county counsel, the penalty collected shall be paid to the treasurer of the county in which the judgment was entered. Except as provided in subdivision (e), if the action is brought by a city attorney or city prosecutor, one-half of the penalty collected shall be paid to the treasurer of the city in which the judgment was entered, and one-half to the treasurer of the county in which the judgment was entered. The aforementioned funds shall be for the exclusive use by the Attorney General, the district attorney, the county counsel, and the city attorney for the enforcement of consumer protection laws.

(d) The Unfair Competition Law Fund is hereby created as a special account within the General Fund in the State Treasury. The portion of penalties that is payable to the General Fund or to the Treasurer recovered by the Attorney General from an action or settlement of a claim made by the Attorney General pursuant to this chapter or Chapter 1 (commencing with Section 17500) of Part 3 shall be deposited into this fund. Moneys in this fund, upon appropriation by the Legislature, shall be used by the Attorney General to support investigations and prosecutions of California's consumer protection laws, including implementation of judgments obtained from such prosecutions or investigations and other activities which are in furtherance of this chapter or Chapter 1 (commencing with Section 17500) of Part 3. *Notwithstanding Section 13340 of the Government Code, any civil penalties deposited in the fund pursuant to the National Mortgage Settlement, as provided in Section 12531 of the Government Code, are continuously appropriated to the Department of Justice for the purpose of offsetting General Fund costs incurred by the Department of Justice.*

(e) If the action is brought at the request of a board within the Department of Consumer Affairs or a local consumer affairs agency, the court shall determine the reasonable expenses incurred by the board or local agency in the investigation and prosecution of the action.

Before any penalty collected is paid out pursuant to subdivision (c), the amount of any reasonable expenses incurred by the board shall be paid to the Treasurer for deposit in the special fund of the board described in Section 205. If the board has no such special fund, the moneys shall be paid to the Treasurer. The amount of any reasonable expenses incurred by a local consumer affairs agency shall be paid to the general fund of the municipality or county that funds the local agency.

(f) If the action is brought by a city attorney of a city and county, the entire amount of the penalty collected shall be paid to the treasurer of the city and county in which the judgment was entered for the exclusive use by the city attorney for the enforcement of consumer protection laws. However, if the action is brought by a city attorney of a city and county for the purposes of civil enforcement pursuant to Section 17980 of the Health and Safety Code or Article 3 (commencing with Section 11570) of Chapter 10 of Division 10 of the Health and Safety Code, either the penalty collected shall be paid entirely to the treasurer of the city and county in which the judgment was entered or, upon the request of the city attorney, the court may order that up to one-half of the penalty, under court supervision and approval, be paid for the purpose of restoring, maintaining, or enhancing the premises that were the subject of the action, and that the balance of the penalty be paid to the treasurer of the city and county.

SEC. 2. Section 1936 of the Civil Code, as amended by Section 1 of Chapter 531 of the Statutes of 2011, is amended to read:

1936. (a) For the purpose of this section, the following definitions shall apply:

(1) “Rental company” means a person or entity in the business of renting passenger vehicles to the public.

(2) “Renter” means any person in a manner obligated under a contract for the lease or hire of a passenger vehicle from a rental company for a period of less than 30 days.

(3) “Authorized driver” means (A) the renter, (B) the renter’s spouse if that person is a licensed driver and satisfies the rental company’s minimum age requirement, (C) the renter’s employer or coworker if he or she is engaged in business activity with the renter, is a licensed driver, and satisfies the rental company’s

minimum age requirement, and (D) a person expressly listed by the rental company on the renter's contract as an authorized driver.

(4) (A) "Customer facility charge" means any fee, including an alternative fee, required by an airport to be collected by a rental company from a renter for any of the following purposes:

(i) To finance, design, and construct consolidated airport car rental facilities.

(ii) To finance, design, construct, and operate common-use transportation systems that move passengers between airport terminals and those consolidated car rental facilities, and acquire vehicles for use in that system.

(iii) To finance, design, and construct terminal modifications solely to accommodate and provide customer access to common-use transportation systems.

(B) The aggregate amount to be collected shall not exceed the reasonable costs, as determined by an independent audit paid for by the airport, to finance, design, and construct those facilities. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing. In the case of a transportation system, the audit also shall consider the reasonable costs of providing the transit system or busing network. Notwithstanding clause (iii) of subparagraph (A), the fees designated as a customer facility charge shall not be used to pay for terminal expansion, gate expansion, runway expansion, changes in hours of operation, or changes in the number of flights arriving or departing from the airport.

(C) Except as provided in subparagraph (D), the authorization given pursuant to this section for an airport to impose a customer facility charge shall become inoperative when the bonds used for financing are paid.

(D) If a bond or other form of indebtedness is not used for financing, or the bond or other form of indebtedness used for financing has been paid, the Oakland International Airport may require the collection of a customer facility charge for a period of up to 10 years from the imposition of the charge for the purposes allowed by, and subject to the conditions imposed by, this section.

(5) "Damage waiver" means a rental company's agreement not to hold a renter liable for all or any portion of any damage or loss

related to the rented vehicle, any loss of use of the rented vehicle, or any storage, impound, towing, or administrative charges.

(6) "Electronic surveillance technology" means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. "Electronic surveillance technology" does not include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used either:

(A) For the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the rental vehicle.

(B) As part of the vehicle's airbag sensing and diagnostic system in order to capture safety systems-related data for retrieval after a crash has occurred or in the event that the collision sensors are activated to prepare the decisionmaking computer to make the determination to deploy or not to deploy the airbag.

(7) "Estimated time for replacement" means the number of hours of labor, or fraction thereof, needed to replace damaged vehicle parts as set forth in collision damage estimating guides generally used in the vehicle repair business and commonly known as "crash books."

(8) "Estimated time for repair" means a good faith estimate of the reasonable number of hours of labor, or fraction thereof, needed to repair damaged vehicle parts.

(9) "Membership program" means a service offered by a rental company that permits customers to bypass the rental counter and go directly to the car previously reserved. A membership program shall meet all of the following requirements:

(A) The renter initiates enrollment by completing an application on which the renter can specify a preference for type of vehicle and acceptance or declination of optional services.

(B) The rental company fully discloses, prior to the enrollee's first rental as a participant in the program, all terms and conditions of the rental agreement as well as all required disclosures.

(C) The renter may terminate enrollment at any time.

(D) The rental company fully explains to the renter that designated preferences, as well as acceptance or declination of optional services, may be changed by the renter at any time for the next and future rentals.

(E) An employee designated to receive the form specified in subparagraph (C) of paragraph (1) of subdivision (t) is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(10) "Passenger vehicle" means a passenger vehicle as defined in Section 465 of the Vehicle Code.

(b) Except as limited by subdivision (c), a rental company and a renter may agree that the renter will be responsible for no more than all of the following:

(1) Physical or mechanical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from collision regardless of the cause of the damage.

(2) Loss due to theft of the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, provided that the rental company establishes by clear and convincing evidence that the renter or the authorized driver failed to exercise ordinary care while in possession of the vehicle. In addition, the renter shall be presumed to have no liability for any loss due to theft if (A) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft, and (B) an authorized driver files an official report of the theft with the police or other law enforcement agency within 24 hours of learning of the theft and reasonably cooperates with the rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this paragraph is a presumption affecting the burden of proof which the rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

(3) Physical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from vandalism occurring after, or in connection with, the theft of the rented vehicle. However, the renter shall have no liability for any damage due to vandalism if the renter would have no liability for theft pursuant to paragraph (2).

(4) Physical damage to the rented vehicle up to a total of five hundred dollars ($500) resulting from vandalism unrelated to the theft of the rented vehicle.

(5) Actual charges for towing, storage, and impound fees paid by the rental company if the renter is liable for damage or loss.

(6) An administrative charge, which shall include the cost of appraisal and all other costs and expenses incident to the damage, loss, repair, or replacement of the rented vehicle.

(c) The total amount of the renter's liability to the rental company resulting from damage to the rented vehicle shall not exceed the sum of the following:

(1) The estimated cost of parts which the rental company would have to pay to replace damaged vehicle parts. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(2) The estimated cost of labor to replace damaged vehicle parts, which shall not exceed the product of (A) the rate for labor usually paid by the rental company to replace vehicle parts of the type that were damaged and (B) the estimated time for replacement. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(3) (A) The estimated cost of labor to repair damaged vehicle parts, which shall not exceed the lesser of the following:

(i) The product of the rate for labor usually paid by the rental company to repair vehicle parts of the type that were damaged and the estimated time for repair.

(ii) The sum of the estimated labor and parts costs determined under paragraphs (1) and (2) to replace the same vehicle parts.

(B) All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(4) For the purpose of converting the estimated time for repair into the same units of time in which the rental rate is expressed, a day shall be deemed to consist of eight hours.

(5) Actual charges for towing, storage, and impound fees paid by the rental company.

(6) The administrative charge described in paragraph (6) of subdivision (b) shall not exceed (A) fifty dollars ($50) if the total estimated cost for parts and labor is more than one hundred dollars ($100) up to and including five hundred dollars ($500), (B) one hundred dollars ($100) if the total estimated cost for parts and labor exceeds five hundred dollars ($500) up to and including one thousand five hundred dollars ($1,500), and (C) one hundred fifty dollars ($150) if the total estimated cost for parts and labor exceeds one thousand five hundred dollars ($1,500). An administrative charge shall not be imposed if the total estimated cost of parts and labor is one hundred dollars ($100) or less.

(d) (1) The total amount of an authorized driver's liability to the rental company, if any, for damage occurring during the authorized driver's operation of the rented vehicle shall not exceed the amount of the renter's liability under subdivision (c).

(2) A rental company shall not recover from the renter or other authorized driver an amount exceeding the renter's liability under subdivision (c).

(3) A claim against a renter resulting from damage or loss, excluding loss of use, to a rental vehicle shall be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and shall not assert or collect a claim for physical damage which exceeds the actual costs of the repairs performed or the estimated cost of repairs, if the rental company chooses not to repair the vehicle, including all discounts and price reductions. However, if the vehicle is a total loss vehicle, the claim shall not exceed the total loss vehicle value established in accordance with procedures that are customarily used by insurance companies when paying claims on total loss vehicles, less the proceeds from salvaging the vehicle, if those proceeds are retained by the rental company.

(4) If insurance coverage exists under the renter's applicable personal or business insurance policy and the coverage is confirmed during regular business hours, the renter may require that the rental company submit any claims to the renter's applicable personal or business insurance carrier. The rental company shall not make any written or oral representations that it will not present claims or negotiate with the renter's insurance carrier. For purposes of this

paragraph, confirmation of coverage includes telephone confirmation from insurance company representatives during regular business hours. Upon request of the renter and after confirmation of coverage, the amount of claim shall be resolved between the insurance carrier and the rental company. The renter shall remain responsible for payment to the rental car company for any loss sustained that the renter's applicable personal or business insurance policy does not cover.

(5) A rental company shall not recover from the renter or other authorized driver for an item described in subdivision (b) to the extent the rental company obtains recovery from another person.

(6) This section applies only to the maximum liability of a renter or other authorized driver to the rental company resulting from damage to the rented vehicle and not to the liability of another person.

(e) (1) Except as provided in subdivision (f), a damage waiver shall provide or, if not expressly stated in writing, shall be deemed to provide that the renter has no liability for a damage, loss, loss of use, or a cost or expense incident thereto.

(2) Except as provided in subdivision (f), every limitation, exception, or exclusion to a damage waiver is void and unenforceable.

(f) A rental company may provide in the rental contract that a damage waiver does not apply under any of the following circumstances:

(1) Damage or loss results from an authorized driver's (A) intentional, willful, wanton, or reckless conduct, (B) operation of the vehicle under the influence of drugs or alcohol in violation of Section 23152 of the Vehicle Code, (C) towing or pushing anything, or (D) operation of the vehicle on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

(2) Damage or loss occurs while the vehicle is (A) used for commercial hire, (B) used in connection with conduct that could be properly charged as a felony, (C) involved in a speed test or contest or in driver training activity, (D) operated by a person other than an authorized driver, or (E) operated outside the United States.

(3) An authorized driver who has (A) provided fraudulent information to the rental company, or (B) provided false

information and the rental company would not have rented the vehicle if it had instead received true information.

(g) (1) A rental company that offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the place, such as the counter, where the renter signs the rental contract, and, for renters who are enrolled in the rental company's membership program, in a sign that shall be posted in a location clearly visible to those renters as they enter the location where their reserved rental cars are parked or near the exit of the bus or other conveyance that transports the enrollee to a reserved car: (A) the nature of the renter's liability, such as liability for all collision damage regardless of cause, (B) the extent of the renter's liability, such as liability for damage or loss up to a specified amount, (C) the renter's personal insurance policy or the credit card used to pay for the car rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with his or her insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company expressly lists that are permitted under subdivision (f), and (F) the range of charges for the damage waiver.

(2) In addition to the requirements of paragraph (1), a rental company that offers or provides a damage waiver shall orally disclose to all renters, except those who are participants in the rental company's membership program, that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. The renter's receipt of the oral disclosure shall be demonstrated through the renter's acknowledging receipt of the oral disclosure near that part of the contract where the renter indicates, by the renter's own initials, his or her acceptance or declination of the damage waiver. Adjacent to that same part, the contract also shall state that the damage waiver is optional. Further, the contract for these renters shall include a clear and conspicuous written disclosure that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance.

(3) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

“NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY AND OPTIONAL DAMAGE WAIVER

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the car rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list exceptions).”

(A) When the above notice is printed in the rental contract or holder in which the contract is placed, the following shall be printed immediately following the notice:

“The cost of an optional damage waiver is $____ for every (day or week).”

(B) When the above notice appears on a sign, the following shall appear immediately adjacent to the notice:

“The cost of an optional damage waiver is $____ to $____ for every (day or week), depending upon the vehicle rented.”

(h) Notwithstanding any other provision of law, a rental company may sell a damage waiver subject to the following rate limitations for each full or partial 24-hour rental day for the damage waiver.

(1) For rental vehicles that the rental company designates as an "economy car," "subcompact car," "compact car," or another term having similar meaning when offered for rental, or another vehicle having a manufacturer's suggested retail price of nineteen thousand dollars ($19,000) or less, the rate shall not exceed nine dollars ($9).

(2) For rental vehicles that have a manufacturer's suggested retail price from nineteen thousand one dollars ($19,001) to thirty-four thousand nine hundred ninety-nine dollars ($34,999), inclusive, and that are also either vehicles of next year's model, or not older than the previous year's model, the rate shall not exceed fifteen dollars ($15). For those rental vehicles older than the previous year's model-year, the rate shall not exceed nine dollars ($9).

(i) The manufacturer's suggested retail prices described in subdivision (h) shall be adjusted annually to reflect changes from the previous year in the Consumer Price Index. For the purposes of this section, "Consumer Price Index" means the United States Consumer Price Index for All Urban Consumers, for all items.

(j) A rental company that disseminates in this state an advertisement containing a rental rate shall include in that advertisement a clearly readable statement of the charge for a damage waiver and a statement that a damage waiver is optional.

(k) (1) A rental company shall not require the purchase of a damage waiver, optional insurance, or another optional good or service.

(2) A rental company shall not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or another optional good or service, including conduct such as, but not limited to, refusing to honor the renter's reservation, limiting the availability of vehicles, requiring a deposit, or debiting or blocking the renter's credit card account for a sum equivalent to a deposit if the renter declines to purchase the damage waiver, optional insurance, or another optional good or service.

(*l*) (1) In the absence of express permission granted by the renter subsequent to damage to, or loss of, the vehicle, a rental company shall not seek to recover any portion of a claim arising out of damage to, or loss of, the rented vehicle by processing a credit card charge or causing a debit or block to be placed on the renter's credit card account.

(2) A rental company shall not engage in any unfair, deceptive, or coercive tactics in attempting to recover or in recovering on any claim arising out of damage to, or loss of, the rented vehicle.

(m) (1) A customer facility charge may be collected by a rental company under the following circumstances:

(A) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, a special district, or the San Diego County Regional Airport Authority formed pursuant to Division 17 (commencing with Section 170000) of the Public Utilities Code.

(B) The fee is calculated on a per contract basis or as provided in paragraph (2).

(C) The fee is a user fee, not a tax imposed upon real property or an incidence of property ownership under Article XIII D of the California Constitution.

(D) Except as otherwise provided in subparagraph (E), the fee shall be ten dollars ($10) per contract or the amount provided in paragraph (2).

(E) The fee for a consolidated rental car facility shall be collected only from customers of on-airport rental car companies. If the fee imposed by the airport is for both a consolidated rental car facility and a common-use transportation system, the fee collected from customers of on-airport rental car companies shall be ten dollars ($10) or the amount provided in paragraph (2), but the fee imposed on customers of off-airport rental car companies who are transported on the common-use transportation system is proportionate to the costs of the common-use transportation system only. The fee is uniformly applied to each class of on-airport or off-airport customers, provided that the airport requires off-airport customers to use the common-use transportation system. For purposes of this subparagraph, "on-airport rental car company" means a rental company operating under an airport property lease or an airport concession or license agreement whose customers use or will use the consolidated rental car facility and the collection of the fee as to those customers is consistent with subparagraph (C).

(F) Revenues collected from the fee do not exceed the reasonable costs of financing, designing, and constructing the facility and financing, designing, constructing, and operating any common-use transportation system, or acquiring vehicles for use in that system, and shall not be used for any other purpose.

(G) The fee is separately identified on the rental agreement.

(H) This paragraph does not apply to fees which are governed by Section 50474.1 of the Government Code or Section 57.5 of the San Diego Unified Port District Act.

(I) For any airport seeking to require rental car companies to collect an alternative customer facility charge pursuant to paragraph (2), the following provisions apply:

(i) Notwithstanding Section 10231.5 of the Government Code, the airport shall provide reports on an annual basis to the Senate and Assembly Committees on Judiciary detailing all of the following:

(I) The total amount of the customer facility charge collected.

(II) How the funds are being spent.

(III) The amount of and reason for any changes in the airport's budget or financial needs for the facility or common-use transportation system.

(IV) Whether airport concession fees authorized by Section 1936.01 have increased since the prior report, if any.

(ii) The airport shall complete the independent audit required by subparagraph (B) of paragraph (4) of subdivision (a) prior to initial collection of the customer facility charge, prior to any increase pursuant to paragraph (2), and every three years after initial collection and any increase until such time as the fee authorization becomes inoperative pursuant to subparagraph (C) of paragraph (4) of subdivision (a). ~~The Controller shall review those audits and independently examine and substantiate the necessity for and the amount of the customer facility charge. The Controller's costs shall be reimbursed by the individual airport being audited. Notwithstanding Section 10231.5 of the Government Code, the Controller shall report to the Legislature on its conclusions, including whether the airport's actual or projected costs are supported and justified, any steps the airport may take to limit costs, potential alternatives for meeting the airport's revenue~~

~~needs other than the collection of the fee, and whether and to what extent car rental companies or other businesses or individuals using the facility or common-use transportation system may pay for the costs associated with these facilities and systems other than the fee from rental customers, or whether the airport did not comply with any provision of this subparagraph.~~

(iii) Use of the bonds shall be limited to construction and design of the consolidated rental car facility, terminal modifications, and operating costs of the common-use transportation system, as specified in paragraph (4) of subdivision (a).

(2) Any airport may require rental car companies to collect an alternative customer facility charge under the following conditions:

(A) The airport first conducts a publicly noticed hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) to review the costs of financing the design and construction of a consolidated rental car facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:

(i) The airport establishes the amount of revenue necessary to finance the reasonable cost to design and construct a consolidated rental car facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing.

(ii) The airport finds, based on evidence presented during the hearing, that the fee authorized in paragraph (1) will not generate sufficient revenue to finance the reasonable costs to design and construct a consolidated rental car facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system.

(iii) The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph.

(iv) The airport outlines each of the following:

(I) Steps it has taken to limit costs.

(II) Other potential alternatives for meeting its revenue needs other than the collection of the fee.

(III) The extent to which rental car companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems other than the fee from rental customers.

~~(v) The Controller reviews and substantiates the need for and amount of the fee pursuant to clause (ii) of subparagraph (I) of paragraph (1).~~

(B) The airport may not require the fee authorized in this paragraph to be collected at any time that the fee authorized in paragraph (1) of this subdivision is being collected.

(C) Pursuant to the procedure set forth in this subdivision, the fee may be collected at a rate charged on a per-day basis subject to the following conditions:

(i) Commencing January 1, 2011, the amount of the fee may not exceed six dollars ($6) per day.

(ii) Commencing January 1, 2014, the amount of the fee may not exceed seven dollars and fifty cents ($7.50) per day.

(iii) Commencing January 1, 2017, and thereafter, the amount of the fee may not exceed nine dollars ($9) per day.

(iv) At no time shall the fee authorized in this paragraph be collected from any customer for more than five days for each individual rental car contract.

(v) An airport subject to this paragraph shall initiate the process for obtaining the authority to require or increase the alternative fee no later than January 1, 2018. Any airport that obtains the authority to require or increase an alternative fee shall be authorized to continue collecting that fee until the fee authorization becomes inoperative pursuant to subparagraph (C) of paragraph (4) of subdivision (a).

(3) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

(n) (1) A rental company shall only advertise, quote, and charge a rental rate that includes the entire amount except taxes, a customer facility charge, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. A rental company shall not charge in addition to the rental rate, taxes, a customer facility charge, if any, and a mileage charge, if any, any fee that is required to be paid by the renter as a condition of hiring or leasing the vehicle, including, but not limited to, required fuel or airport surcharges other than customer facility charges, nor a fee for transporting the renter to the location where the rented vehicle will be delivered to the renter.

(2) In addition to the rental rate, taxes, customer facility charges, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental. A rental company also may impose an additional charge based on reasonable age criteria established by the rental company.

(3) A rental company shall not charge a fee for authorized drivers in addition to the rental charge for an individual renter.

(4) If a rental company states a rental rate in print advertisement or in a telephonic, in-person, or computer-transmitted quotation, the rental company shall disclose clearly in that advertisement or quotation the terms of mileage conditions relating to the advertised or quoted rental rate, including, but not limited to, to the extent applicable, the amount of mileage and gas charges, the number of miles for which no charges will be imposed, and a description of geographic driving limitations within the United States and Canada.

(5) (A) When a rental rate is stated in an advertisement, quotation, or reservation in connection with a car rental at an airport where a customer facility charge is imposed, the rental company shall disclose clearly the existence and amount of the customer facility charge. For purposes of this subparagraph, advertisements include radio, television, other electronic media, and print advertisements. For purposes of this subparagraph, quotations and reservations include those that are telephonic, in-person, and

computer-transmitted. If the rate advertisement is intended to include transactions at more than one airport imposing a customer facility charge, a range of fees may be stated in the advertisement. However, all rate advertisements that include car rentals at airport destinations shall clearly and conspicuously include a toll-free telephone number whereby a customer can be told the specific amount of the customer facility charge to which the customer will be obligated.

(B) If a person or entity other than a rental car company, including a passenger carrier or a seller of travel services, advertises or quotes a rate for a car rental at an airport where a customer facility charge is imposed, that person or entity shall, provided that he, she, or it is provided with information about the existence and amount of the fee, to the extent not specifically prohibited by federal law, clearly disclose the existence and amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car. If a rental car company provides the person or entity with rate and customer facility charge information, the rental car company is not responsible for the failure of that person or entity to comply with this subparagraph when quoting or confirming a rate to a third person or entity.

(6) If a rental company delivers a vehicle to a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period before the delivery of the vehicle. If a rental company picks up a rented vehicle from a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(o) A rental company shall not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology, except in the following circumstances:

(1) (A) When the equipment is used by the rental company only for the purpose of locating a stolen, abandoned, or missing rental vehicle after one of the following:

(i) The renter or law enforcement has informed the rental company that the vehicle is missing or has been stolen or abandoned.

(ii) The rental vehicle has not been returned following one week after the contracted return date, or by one week following the end of an extension of that return date.

(iii) The rental company discovers the rental vehicle has been stolen or abandoned, and, if stolen, it shall report the vehicle stolen to law enforcement by filing a stolen vehicle report, unless law enforcement has already informed the rental company that the vehicle is missing or has been stolen or abandoned.

(B) If electronic surveillance technology is activated pursuant to subparagraph (A), a rental company shall maintain a record, in either electronic or written form, of information relevant to the activation of that technology. That information shall include the rental agreement, including the return date, and the date and time the electronic surveillance technology was activated. The record shall also include, if relevant, a record of written or other communication with the renter, including communications regarding extensions of the rental, police reports, or other written communication with law enforcement officials. The record shall be maintained for a period of at least 12 months from the time the record is created and shall be made available upon the renter's request. The rental company shall maintain and furnish explanatory codes necessary to read the record. A rental company shall not be required to maintain a record if electronic surveillance technology is activated to recover a rental vehicle that is stolen or missing at a time other than during a rental period.

(2) In response to a specific request from law enforcement pursuant to a subpoena or search warrant.

(3) This subdivision does not prohibit a rental company from equipping rental vehicles with GPS-based technology that provides navigation assistance to the occupants of the rental vehicle, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except for the purposes of discovering or repairing a defect in the technology and the information may then be used only for that purpose.

(4) This subdivision does not prohibit a rental company from equipping rental vehicles with electronic surveillance technology

that allows for the remote locking or unlocking of the vehicle at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except as necessary to lock or unlock the vehicle.

(5) This subdivision does not prohibit a rental company from equipping rental vehicles with electronic surveillance technology that allows the company to provide roadside assistance, such as towing, flat tire, or fuel services, at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology except as necessary to provide the requested roadside assistance.

(6) This subdivision does not prohibit a rental company from obtaining, accessing, or using information from electronic surveillance technology for the sole purpose of determining the date and time the vehicle is returned to the rental company, and the total mileage driven and the vehicle fuel level of the returned vehicle. This paragraph, however, shall apply only after the renter has returned the vehicle to the rental company, and the information shall only be used for the purpose described in this paragraph.

(p) A rental company shall not use electronic surveillance technology to track a renter in order to impose fines or surcharges relating to the renter's use of the rental vehicle.

(q) A renter may bring an action against a rental company for the recovery of damages and appropriate equitable relief for a violation of this section. The prevailing party shall be entitled to recover reasonable attorney's fees and costs.

(r) A rental company that brings an action against a renter for loss due to theft of the vehicle shall bring the action in the county in which the renter resides or, if the renter is not a resident of this state, in the jurisdiction in which the renter resides.

(s) A waiver of any of the provisions of this section shall be void and unenforceable as contrary to public policy.

(t) (1) A rental company's disclosure requirements shall be satisfied for renters who are enrolled in the rental company's membership program if all of the following conditions are met:

(A) Prior to the enrollee's first rental as a participant in the program, the renter receives, in writing, the following:

(i) All of the disclosures required by paragraph (1) of subdivision (g), including the terms and conditions of the rental agreement then in effect.

(ii) An Internet Web site address, as well as a contact number or address, where the enrollee can learn of changes to the rental agreement or to the laws of this state governing rental agreements since the effective date of the rental company's most recent restatement of the rental agreement and distribution of that restatement to its members.

(B) At the commencement of each rental period, the renter is provided, on the rental record or the folder in which it is inserted, with a printed notice stating that he or she had either previously selected or declined an optional damage waiver and that the renter has the right to change preferences.

(C) At the commencement of each rental period, the rental company provides, on the rearview mirror, a hanger on which a statement is printed, in a box, in at least 12-point boldface type, notifying the renter that the collision damage waiver offered by the rental company may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. If it is not feasible to hang the statement from the rearview mirror, it shall be hung from the steering wheel.

The hanger shall provide the renter a box to initial if he or she (not his or her employer) has previously accepted or declined the collision damage waiver and that he or she now wishes to change his or her decision to accept or decline the collision damage waiver, as follows:

"□ If I previously accepted the collision damage waiver, I now decline it.

□ If I previously declined the collision damage waiver, I now accept it."

The hanger shall also provide a box for the enrollee to indicate whether this change applies to this rental transaction only or to all future rental transactions. The hanger shall also notify the renter that he or she may make that change, prior to leaving the lot, by returning the form to an employee designated to receive the form who is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(2) (A) This subdivision is not effective unless the employee designated pursuant to subparagraph (E) of paragraph (8) of subdivision (a) is actually present at the required location.

(B) This subdivision does not relieve the rental company from the disclosures required to be made within the text of a contract or holder in which the contract is placed; in or on an advertisement containing a rental rate; or in a telephonic, in-person, or computer-transmitted quotation or reservation.

(u) The amendments made to this section during the 2001–02 Regular Session of the Legislature do not affect litigation pending on or before January 1, 2003, alleging a violation of Section 22325 of the Business and Professions Code as it read at the time the action was commenced.

(v) (1) When a rental company enters into a rental agreement in the state for the rental of a vehicle to any renter who is not a resident of this country and, as part of, or associated with, the rental agreement, the renter purchases liability insurance, as defined in subdivision (b) of Section 1758.85 of the Insurance Code, from the rental company in its capacity as a rental car agent for an authorized insurer, the rental company shall be authorized to accept, and, if served as set forth in this subdivision, shall accept, service of a summons and complaint and any other required documents against the foreign renter for any accident or collision resulting from the operation of the rental vehicle within the state during the rental period. If the rental company has a registered agent for service of process on file with the Secretary of State, process shall be served on the rental company's registered agent, either by first-class mail, return receipt requested, or by personal service.

(2) Within 30 days of acceptance of service of process, the rental company shall, provide a copy of the summons and complaint and any other required documents served in accordance with this subdivision to the foreign renter by first-class mail, return receipt requested.

(3) Any plaintiff, or his or her representative, who elects to serve the foreign renter by delivering a copy of the summons and complaint and any other required documents to the rental company pursuant to paragraph (1) shall agree to limit his or her recovery

against the foreign renter and the rental company to the limits of the protection extended by the liability insurance.

(4) Notwithstanding the requirements of Sections 17450 to 17456, inclusive, of the Vehicle Code, service of process in compliance with paragraph (1) shall be deemed valid and effective service.

(5) Notwithstanding any other provision of law, the requirement that the rental company accept service of process pursuant to paragraph (1) shall not create any duty, obligation, or agency relationship other than that provided in paragraph (1).

(w) This section shall remain in effect only until January 1, 2015, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2015, deletes or extends that date.

SEC. 3. Section 1936 of the Civil Code, as added by Section 2 of Chapter 531 of the Statutes of 2011, is amended to read:

1936. (a) For the purpose of this section, the following definitions shall apply:

(1) “Rental company” means a person or entity in the business of renting passenger vehicles to the public.

(2) “Renter” means any person in a manner obligated under a contract for the lease or hire of a passenger vehicle from a rental company for a period of less than 30 days.

(3) “Authorized driver” means (A) the renter, (B) the renter’s spouse if that person is a licensed driver and satisfies the rental company’s minimum age requirement, (C) the renter’s employer or coworker if he or she is engaged in business activity with the renter, is a licensed driver, and satisfies the rental company’s minimum age requirement, and (D) a person expressly listed by the rental company on the renter’s contract as an authorized driver.

(4) (A) “Customer facility charge” means any fee, including an alternative fee, required by an airport to be collected by a rental company from a renter for any of the following purposes:

(i) To finance, design, and construct consolidated airport car rental facilities.

(ii) To finance, design, construct, and operate common-use transportation systems that move passengers between airport terminals and those consolidated car rental facilities, and acquire vehicles for use in that system.

(iii) To finance, design, and construct terminal modifications solely to accommodate and provide customer access to common-use transportation systems.

(B) The aggregate amount to be collected shall not exceed the reasonable costs, as determined by an independent audit paid for by the airport, to finance, design, and construct those facilities. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing. In the case of a transportation system, the audit also shall consider the reasonable costs of providing the transit system or busing network. Notwithstanding clause (iii) of subparagraph (A), the fees designated as a customer facility charge shall not be used to pay for terminal expansion, gate expansion, runway expansion, changes in hours of operation, or changes in the number of flights arriving or departing from the airport.

(C) Except as provided in subparagraph (D), the authorization given pursuant to this section for an airport to impose a customer facility charge shall become inoperative when the bonds used for financing are paid.

(D) If a bond or other form of indebtedness is not used for financing, or the bond or other form of indebtedness used for financing has been paid, the Oakland International Airport may require the collection of a customer facility charge for a period of up to 10 years from the imposition of the charge for the purposes allowed by, and subject to the conditions imposed by, this section.

(5) "Damage waiver" means a rental company's agreement not to hold a renter liable for all or any portion of any damage or loss related to the rented vehicle, any loss of use of the rented vehicle, or any storage, impound, towing, or administrative charges.

(6) "Electronic surveillance technology" means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. "Electronic surveillance technology" does not include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used either:

(A) For the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the rental vehicle.

(B) As part of the vehicle's airbag sensing and diagnostic system in order to capture safety systems-related data for retrieval after a crash has occurred or in the event that the collision sensors are activated to prepare the decisionmaking computer to make the determination to deploy or not to deploy the airbag.

(7) "Estimated time for replacement" means the number of hours of labor, or fraction thereof, needed to replace damaged vehicle parts as set forth in collision damage estimating guides generally used in the vehicle repair business and commonly known as "crash books."

(8) "Estimated time for repair" means a good faith estimate of the reasonable number of hours of labor, or fraction thereof, needed to repair damaged vehicle parts.

(9) "Membership program" means a service offered by a rental company that permits customers to bypass the rental counter and go directly to the car previously reserved. A membership program shall meet all of the following requirements:

(A) The renter initiates enrollment by completing an application on which the renter can specify a preference for type of vehicle and acceptance or declination of optional services.

(B) The rental company fully discloses, prior to the enrollee's first rental as a participant in the program, all terms and conditions of the rental agreement as well as all required disclosures.

(C) The renter may terminate enrollment at any time.

(D) The rental company fully explains to the renter that designated preferences, as well as acceptance or declination of optional services, may be changed by the renter at any time for the next and future rentals.

(E) An employee designated to receive the form specified in subparagraph (C) of paragraph (1) of subdivision (t) is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(10) "Passenger vehicle" means a passenger vehicle as defined in Section 465 of the Vehicle Code.

(b) Except as limited by subdivision (c), a rental company and a renter may agree that the renter will be responsible for no more than all of the following:

(1) Physical or mechanical damage to the rented vehicle up to its fair market value, as determined in the customary market for

the sale of that vehicle, resulting from collision regardless of the cause of the damage.

(2) Loss due to theft of the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, provided that the rental company establishes by clear and convincing evidence that the renter or the authorized driver failed to exercise ordinary care while in possession of the vehicle. In addition, the renter shall be presumed to have no liability for any loss due to theft if (A) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft, and (B) an authorized driver files an official report of the theft with the police or other law enforcement agency within 24 hours of learning of the theft and reasonably cooperates with the rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this paragraph is a presumption affecting the burden of proof which the rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

(3) Physical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from vandalism occurring after, or in connection with, the theft of the rented vehicle. However, the renter shall have no liability for any damage due to vandalism if the renter would have no liability for theft pursuant to paragraph (2).

(4) Physical damage to the rented vehicle up to a total of five hundred dollars ($500) resulting from vandalism unrelated to the theft of the rented vehicle.

(5) Actual charges for towing, storage, and impound fees paid by the rental company if the renter is liable for damage or loss.

(6) An administrative charge, which shall include the cost of appraisal and all other costs and expenses incident to the damage, loss, repair, or replacement of the rented vehicle.

(c) The total amount of the renter's liability to the rental company resulting from damage to the rented vehicle shall not exceed the sum of the following:

(1) The estimated cost of parts which the rental company would have to pay to replace damaged vehicle parts. All discounts and

price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(2) The estimated cost of labor to replace damaged vehicle parts, which shall not exceed the product of (A) the rate for labor usually paid by the rental company to replace vehicle parts of the type that were damaged and (B) the estimated time for replacement. All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(3) (A) The estimated cost of labor to repair damaged vehicle parts, which shall not exceed the lesser of the following:

(i) The product of the rate for labor usually paid by the rental company to repair vehicle parts of the type that were damaged and the estimated time for repair.

(ii) The sum of the estimated labor and parts costs determined under paragraphs (1) and (2) to replace the same vehicle parts.

(B) All discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(4) For the purpose of converting the estimated time for repair into the same units of time in which the rental rate is expressed, a day shall be deemed to consist of eight hours.

(5) Actual charges for towing, storage, and impound fees paid by the rental company.

(6) The administrative charge described in paragraph (6) of subdivision (b) shall not exceed (A) fifty dollars ($50) if the total estimated cost for parts and labor is more than one hundred dollars ($100) up to and including five hundred dollars ($500), (B) one hundred dollars ($100) if the total estimated cost for parts and labor exceeds five hundred dollars ($500) up to and including one thousand five hundred dollars ($1,500), and (C) one hundred fifty dollars ($150) if the total estimated cost for parts and labor exceeds one thousand five hundred dollars ($1,500). An administrative charge shall not be imposed if the total estimated cost of parts and labor is one hundred dollars ($100) or less.

(d) (1) The total amount of an authorized driver's liability to the rental company, if any, for damage occurring during the authorized driver's operation of the rented vehicle shall not exceed the amount of the renter's liability under subdivision (c).

(2) A rental company shall not recover from the renter or other authorized driver an amount exceeding the renter's liability under subdivision (c).

(3) A claim against a renter resulting from damage or loss, excluding loss of use, to a rental vehicle shall be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and shall not assert or collect a claim for physical damage which exceeds the actual costs of the repairs performed or the estimated cost of repairs, if the rental company chooses not to repair the vehicle, including all discounts and price reductions. However, if the vehicle is a total loss vehicle, the claim shall not exceed the total loss vehicle value established in accordance with procedures that are customarily used by insurance companies when paying claims on total loss vehicles, less the proceeds from salvaging the vehicle, if those proceeds are retained by the rental company.

(4) If insurance coverage exists under the renter's applicable personal or business insurance policy and the coverage is confirmed during regular business hours, the renter may require that the rental company submit any claims to the renter's applicable personal or business insurance carrier. The rental company shall not make any written or oral representations that it will not present claims or negotiate with the renter's insurance carrier. For purposes of this paragraph, confirmation of coverage includes telephone confirmation from insurance company representatives during regular business hours. Upon request of the renter and after confirmation of coverage, the amount of claim shall be resolved between the insurance carrier and the rental company. The renter shall remain responsible for payment to the rental car company for any loss sustained that the renter's applicable personal or business insurance policy does not cover.

(5) A rental company shall not recover from the renter or other authorized driver for an item described in subdivision (b) to the extent the rental company obtains recovery from another person.

(6) This section applies only to the maximum liability of a renter or other authorized driver to the rental company resulting from

damage to the rented vehicle and not to the liability of another person.

(e) (1) Except as provided in subdivision (f), a damage waiver shall provide or, if not expressly stated in writing, shall be deemed to provide that the renter has no liability for a damage, loss, loss of use, or a cost or expense incident thereto.

(2) Except as provided in subdivision (f), every limitation, exception, or exclusion to a damage waiver is void and unenforceable.

(f) A rental company may provide in the rental contract that a damage waiver does not apply under any of the following circumstances:

(1) Damage or loss results from an authorized driver's (A) intentional, willful, wanton, or reckless conduct, (B) operation of the vehicle under the influence of drugs or alcohol in violation of Section 23152 of the Vehicle Code, (C) towing or pushing anything, or (D) operation of the vehicle on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

(2) Damage or loss occurs while the vehicle is (A) used for commercial hire, (B) used in connection with conduct that could be properly charged as a felony, (C) involved in a speed test or contest or in driver training activity, (D) operated by a person other than an authorized driver, or (E) operated outside the United States.

(3) An authorized driver who has (A) provided fraudulent information to the rental company, or (B) provided false information and the rental company would not have rented the vehicle if it had instead received true information.

(g) (1) A rental company that offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the place, such as the counter, where the renter signs the rental contract, and, for renters who are enrolled in the rental company's membership program, in a sign that shall be posted in a location clearly visible to those renters as they enter the location where their reserved rental cars are parked or near the exit of the bus or other conveyance that transports the enrollee to a reserved car: (A) the nature of the renter's liability, such as liability for all collision damage regardless of cause, (B) the extent of the renter's liability, such as liability for damage or loss up to a specified amount, (C) the renter's personal insurance policy or the credit card used to pay for the car rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with his or her insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company expressly lists that are permitted under subdivision (f), and (F) the range of charges for the damage waiver.

(2) In addition to the requirements of paragraph (1), a rental company that offers or provides a damage waiver shall orally disclose to all renters, except those who are participants in the rental company's membership program, that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. The renter's receipt of the oral disclosure shall be demonstrated through the renter's acknowledging receipt of the oral disclosure near that part of the contract where the renter indicates, by the renter's own initials, his or her acceptance or declination of the damage waiver. Adjacent to that same part, the contract also shall state that the damage waiver is optional. Further, the contract for these renters shall include a clear and conspicuous written disclosure that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance.

(3) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

"NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
AND OPTIONAL DAMAGE WAIVER

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the car rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list exceptions)."

(A) When the above notice is printed in the rental contract or holder in which the contract is placed, the following shall be printed immediately following the notice:

"The cost of an optional damage waiver is $____ for every (day or week)."

(B) When the above notice appears on a sign, the following shall appear immediately adjacent to the notice:

"The cost of an optional damage waiver is $____ to $____ for every (day or week), depending upon the vehicle rented."

(h) Notwithstanding any other provision of law, a rental company may sell a damage waiver subject to the following rate limitations for each full or partial 24-hour rental day for the damage waiver.

(1) For rental vehicles that the rental company designates as an "economy car," "subcompact car," "compact car," or another term having similar meaning when offered for rental, or another vehicle having a manufacturer's suggested retail price of nineteen thousand dollars ($19,000) or less, the rate shall not exceed nine dollars ($9).

(2) For rental vehicles that have a manufacturer's suggested retail price from nineteen thousand one dollars ($19,001) to thirty-four thousand nine hundred ninety-nine dollars ($34,999), inclusive, and that are also either vehicles of next year's model, or not older than the previous year's model, the rate shall not exceed fifteen dollars ($15). For those rental vehicles older than the previous year's model-year, the rate shall not exceed nine dollars ($9).

(i) The manufacturer's suggested retail prices described in subdivision (h) shall be adjusted annually to reflect changes from the previous year in the Consumer Price Index. For the purposes of this section, “Consumer Price Index” means the United States Consumer Price Index for All Urban Consumers, for all items.

(j) A rental company that disseminates in this state an advertisement containing a rental rate shall include in that advertisement a clearly readable statement of the charge for a damage waiver and a statement that a damage waiver is optional.

(k) (1) A rental company shall not require the purchase of a damage waiver, optional insurance, or another optional good or service.

(2) A rental company shall not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or another optional good or service, including conduct such as, but not limited to, refusing to honor the renter’s reservation, limiting the availability of vehicles, requiring a deposit, or debiting or blocking the renter’s credit card account for a sum equivalent to a deposit if the renter declines to purchase the damage waiver, optional insurance, or another optional good or service.

(*l*) (1) In the absence of express permission granted by the renter subsequent to damage to, or loss of, the vehicle, a rental company shall not seek to recover any portion of a claim arising out of damage to, or loss of, the rented vehicle by processing a credit card charge or causing a debit or block to be placed on the renter’s credit card account.

(2) A rental company shall not engage in any unfair, deceptive, or coercive tactics in attempting to recover or in recovering on any claim arising out of damage to, or loss of, the rented vehicle.

(m) (1) A customer facility charge may be collected by a rental company under the following circumstances:

(A) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, a special district, or the San Diego County Regional Airport Authority formed pursuant to Division 17 (commencing with Section 170000) of the Public Utilities Code.

(B) The fee is calculated on a per contract basis or as provided in paragraph (2).

(C) The fee is a user fee, not a tax imposed upon real property or an incidence of property ownership under Article XIII D of the California Constitution.

(D) Except as otherwise provided in subparagraph (E), the fee shall be ten dollars ($10) per contract or the amount provided in paragraph (2).

(E) The fee for a consolidated rental car facility shall be collected only from customers of on-airport rental car companies. If the fee imposed by the airport is for both a consolidated rental car facility and a common-use transportation system, the fee collected from customers of on-airport rental car companies shall be ten dollars ($10) or the amount provided in paragraph (2), but the fee imposed on customers of off-airport rental car companies who are transported on the common-use transportation system is proportionate to the costs of the common-use transportation system only. The fee is uniformly applied to each class of on-airport or off-airport customers, provided that the airport requires off-airport customers to use the common-use transportation system. For purposes of this subparagraph, “on-airport rental car company” means a rental company operating under an airport property lease or an airport concession or license agreement whose customers use or will use the consolidated rental car facility and the collection of the fee as to those customers is consistent with subparagraph (C).

(F) Revenues collected from the fee do not exceed the reasonable costs of financing, designing, and constructing the facility and financing, designing, constructing, and operating any common-use transportation system, or acquiring vehicles for use in that system, and shall not be used for any other purpose.

(G) The fee is separately identified on the rental agreement.

(H) This paragraph does not apply to fees which are governed by Section 50474.1 of the Government Code or Section 57.5 of the San Diego Unified Port District Act.

(I) For any airport seeking to require rental car companies to collect an alternative customer facility charge pursuant to paragraph (2), the following provisions apply:

(i) Notwithstanding Section 10231.5 of the Government Code, the airport shall provide reports on an annual basis to the Senate and Assembly Committees on Judiciary detailing all of the following:

(I) The total amount of the customer facility charge collected.

(II) How the funds are being spent.

(III) The amount of and reason for any changes in the airport's budget or financial needs for the facility or common-use transportation system.

(IV) Whether airport concession fees authorized by Section 1936.01 have increased since the prior report, if any.

(ii) The airport shall complete the independent audit required by subparagraph (B) of paragraph (4) of subdivision (a) prior to initial collection of the customer facility charge, prior to any increase pursuant to paragraph (2), and every three years after initial collection and any increase until such time as the fee authorization becomes inoperative pursuant to subparagraph (C) of paragraph (4) of subdivision (a). ~~The Controller shall review those audits and independently examine and substantiate the necessity for and the amount of the customer facility charge. The Controller's costs shall be reimbursed by the individual airport being audited. Notwithstanding Section 10231.5 of the Government Code, the Controller shall report to the Legislature on its conclusions, including whether the airport's actual or projected costs are supported and justified, any steps the airport may take to limit costs, potential alternatives for meeting the airport's revenue needs other than the collection of the fee, and whether and to what extent car rental companies or other businesses or individuals using the facility or common-use transportation system may pay for the costs associated with these facilities and systems other than the fee from rental customers, or whether the airport did not comply with any provision of this subparagraph.~~

(iii) Use of the bonds shall be limited to construction and design of the consolidated rental car facility, terminal modifications, and operating costs of the common-use transportation system, as specified in paragraph (4) of subdivision (a).

(2) Any airport may require rental car companies to collect an alternative customer facility charge under the following conditions:

(A) The airport first conducts a publicly noticed hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) to review the costs of financing the design and construction of a consolidated rental car facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:

(i) The airport establishes the amount of revenue necessary to finance the reasonable cost to design and construct a consolidated rental car facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing.

(ii) The airport finds, based on evidence presented during the hearing, that the fee authorized in paragraph (1) will not generate sufficient revenue to finance the reasonable costs to design and construct a consolidated rental car facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system.

(iii) The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph.

(iv) The airport outlines each of the following:

(I) Steps it has taken to limit costs.

(II) Other potential alternatives for meeting its revenue needs other than the collection of the fee.

(III) The extent to which rental car companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems other than the fee from rental customers.

~~(v) The Controller reviews and substantiates the need for and amount of the fee pursuant to clause (ii) of subparagraph (I) of paragraph (1).~~

(B) The airport may not require the fee authorized in this paragraph to be collected at any time that the fee authorized in paragraph (1) of this subdivision is being collected.

(C) Pursuant to the procedure set forth in this subdivision, the fee may be collected at a rate charged on a per-day basis subject to the following conditions:

(i) Commencing January 1, 2011, the amount of the fee may not exceed six dollars ($6) per day.

(ii) Commencing January 1, 2014, the amount of the fee may not exceed seven dollars and fifty cents ($7.50) per day.

(iii) Commencing January 1, 2017, and thereafter, the amount of the fee may not exceed nine dollars ($9) per day.

(iv) At no time shall the fee authorized in this paragraph be collected from any customer for more than five days for each individual rental car contract.

(v) An airport subject to this paragraph shall initiate the process for obtaining the authority to require or increase the alternative fee no later than January 1, 2018. Any airport that obtains the authority to require or increase an alternative fee shall be authorized to continue collecting that fee until the fee authorization becomes inoperative pursuant to subparagraph (C) of paragraph (4) of subdivision (a).

(3) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

(n) (1) A rental company shall only advertise, quote, and charge a rental rate that includes the entire amount except taxes, a customer facility charge, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. A rental company shall not charge in addition to the rental rate, taxes, a customer facility charge, if any, and a mileage charge, if any, any fee that is required to be paid by the renter as a condition of hiring or leasing the vehicle, including, but not limited to, required fuel or airport surcharges other than customer facility charges, nor a fee for transporting the renter to the location where the rented vehicle will be delivered to the renter.

(2) In addition to the rental rate, taxes, customer facility charges, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and

charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental. A rental company also may impose an additional charge based on reasonable age criteria established by the rental company.

(3) A rental company shall not charge a fee for authorized drivers in addition to the rental charge for an individual renter.

(4) If a rental company states a rental rate in print advertisement or in a telephonic, in-person, or computer-transmitted quotation, the rental company shall disclose clearly in that advertisement or quotation the terms of mileage conditions relating to the advertised or quoted rental rate, including, but not limited to, to the extent applicable, the amount of mileage and gas charges, the number of miles for which no charges will be imposed, and a description of geographic driving limitations within the United States and Canada.

(5) (A) When a rental rate is stated in an advertisement, quotation, or reservation in connection with a car rental at an airport where a customer facility charge is imposed, the rental company shall disclose clearly the existence and amount of the customer facility charge. For purposes of this subparagraph, advertisements include radio, television, other electronic media, and print advertisements. For purposes of this subparagraph, quotations and reservations include those that are telephonic, in-person, and computer-transmitted. If the rate advertisement is intended to include transactions at more than one airport imposing a customer facility charge, a range of fees may be stated in the advertisement. However, all rate advertisements that include car rentals at airport destinations shall clearly and conspicuously include a toll-free telephone number whereby a customer can be told the specific amount of the customer facility charge to which the customer will be obligated.

(B) If a person or entity other than a rental car company, including a passenger carrier or a seller of travel services, advertises or quotes a rate for a car rental at an airport where a customer facility charge is imposed, that person or entity shall, provided that he, she, or it is provided with information about the existence and amount of the fee, to the extent not specifically prohibited by federal law, clearly disclose the existence and amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car. If a rental car company provides the person or entity with rate and customer facility charge information, the rental car company is not responsible for the failure of that person or entity to comply with this subparagraph when quoting or confirming a rate to a third person or entity.

(6) If a rental company delivers a vehicle to a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period before the delivery of the vehicle. If a rental company picks up a rented vehicle from a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(o) A rental company shall not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology, except in the following circumstances:

(1) (A) When the equipment is used by the rental company only for the purpose of locating a stolen, abandoned, or missing rental vehicle after one of the following:

(i) The renter or law enforcement has informed the rental company that the vehicle is missing or has been stolen or abandoned.

(ii) The rental vehicle has not been returned following one week after the contracted return date, or by one week following the end of an extension of that return date.

(iii) The rental company discovers the rental vehicle has been stolen or abandoned, and, if stolen, it shall report the vehicle stolen to law enforcement by filing a stolen vehicle report, unless law enforcement has already informed the rental company that the vehicle is missing or has been stolen or abandoned.

(B) If electronic surveillance technology is activated pursuant to subparagraph (A), a rental company shall maintain a record, in either electronic or written form, of information relevant to the activation of that technology. That information shall include the rental agreement, including the return date, and the date and time the electronic surveillance technology was activated. The record shall also include, if relevant, a record of written or other communication with the renter, including communications regarding extensions of the rental, police reports, or other written communication with law enforcement officials. The record shall be maintained for a period of at least 12 months from the time the record is created and shall be made available upon the renter's request. The rental company shall maintain and furnish explanatory codes necessary to read the record. A rental company shall not be required to maintain a record if electronic surveillance technology is activated to recover a rental vehicle that is stolen or missing at a time other than during a rental period.

(2) In response to a specific request from law enforcement pursuant to a subpoena or search warrant.

(3) This subdivision does not prohibit a rental company from equipping rental vehicles with GPS-based technology that provides navigation assistance to the occupants of the rental vehicle, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except for the purposes of discovering or repairing a defect in the technology and the information may then be used only for that purpose.

(4) This subdivision does not prohibit a rental company from equipping rental vehicles with electronic surveillance technology that allows for the remote locking or unlocking of the vehicle at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except as necessary to lock or unlock the vehicle.

(5) This subdivision does not prohibit a rental company from equipping rental vehicles with electronic surveillance technology that allows the company to provide roadside assistance, such as towing, flat tire, or fuel services, at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology except as necessary to provide the requested roadside assistance.

(6) This subdivision does not prohibit a rental company from obtaining, accessing, or using information from electronic surveillance technology for the sole purpose of determining the date and time the vehicle is returned to the rental company, and the total mileage driven and the vehicle fuel level of the returned vehicle. This paragraph, however, shall apply only after the renter

has returned the vehicle to the rental company, and the information shall only be used for the purpose described in this paragraph.

(p) A rental company shall not use electronic surveillance technology to track a renter in order to impose fines or surcharges relating to the renter's use of the rental vehicle.

(q) A renter may bring an action against a rental company for the recovery of damages and appropriate equitable relief for a violation of this section. The prevailing party shall be entitled to recover reasonable attorney's fees and costs.

(r) A rental company that brings an action against a renter for loss due to theft of the vehicle shall bring the action in the county in which the renter resides or, if the renter is not a resident of this state, in the jurisdiction in which the renter resides.

(s) A waiver of any of the provisions of this section shall be void and unenforceable as contrary to public policy.

(t) (1) A rental company's disclosure requirements shall be satisfied for renters who are enrolled in the rental company's membership program if all of the following conditions are met:

(A) Prior to the enrollee's first rental as a participant in the program, the renter receives, in writing, the following:

(i) All of the disclosures required by paragraph (1) of subdivision (g), including the terms and conditions of the rental agreement then in effect.

(ii) An Internet Web site address, as well as a contact number or address, where the enrollee can learn of changes to the rental agreement or to the laws of this state governing rental agreements since the effective date of the rental company's most recent restatement of the rental agreement and distribution of that restatement to its members.

(B) At the commencement of each rental period, the renter is provided, on the rental record or the folder in which it is inserted, with a printed notice stating that he or she had either previously selected or declined an optional damage waiver and that the renter has the right to change preferences.

(C) At the commencement of each rental period, the rental company provides, on the rearview mirror, a hanger on which a statement is printed, in a box, in at least 12-point boldface type, notifying the renter that the collision damage waiver offered by the rental company may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. If it is not feasible to hang the statement from the rearview mirror, it shall be hung from the steering wheel.

The hanger shall provide the renter a box to initial if he or she (not his or her employer) has previously accepted or declined the collision damage waiver and that he or she now wishes to change his or her decision to accept or decline the collision damage waiver, as follows:

"□ If I previously accepted the collision damage waiver, I now decline it.

□ If I previously declined the collision damage waiver, I now accept it."

The hanger shall also provide a box for the enrollee to indicate whether this change applies to this rental transaction only or to all future rental transactions. The hanger shall also notify the renter that he or she may make that change, prior to leaving the lot, by returning the form to an employee designated to receive the form who is present at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(2) (A) This subdivision is not effective unless the employee designated pursuant to subparagraph (E) of paragraph (8) of subdivision (a) is actually present at the required location.

(B) This subdivision does not relieve the rental company from the disclosures required to be made within the text of a contract or holder in which the contract is placed; in or on an advertisement containing a rental rate; or in a telephonic, in-person, or computer-transmitted quotation or reservation.

(u) The amendments made to this section during the 2001–02 Regular Session of the Legislature do not affect litigation pending on or before January 1, 2003, alleging a violation of Section 22325 of the Business and Professions Code as it read at the time the action was commenced.

(v) This section shall become operative on January 1, 2015.

SEC. 4. Section 5924 of the Government Code, as amended by Section 1 of Chapter 646 of the Statutes of 2009, is amended to read:

5924. (a) (1) Notwithstanding Section 13340, there is hereby continuously appropriated without regard to fiscal years, from the General Fund in the State Treasury for the purpose of this chapter, an amount that will equal the sum annually as will be necessary to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state under or in connection with any credit enhancement or liquidity agreement, as specified in paragraph (2), that is entered into by the state pursuant to this chapter for bonds payable pursuant to an appropriation from the General Fund.

(2) A credit enhancement or liquidity agreement subject to this section includes a credit enhancement or liquidity agreement that is in the form of a letter of credit, standby purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement.

(b) (1) If the agent for sale determines that the credit enhancement or liquidity agreement is expected to result in a lower cost of the borrowing for the bonds to which the credit enhancement or liquidity agreement pertains, the state may incur fees, costs, and other similar expenses under or in connection with any credit enhancement or liquidity agreement entered into by the state pursuant to this chapter.

(2) The amount appropriated pursuant to subdivision (a) for fees, costs, and other similar expenses incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the original principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed 3 percent.

(3) The amount appropriated pursuant to subdivision (a) for interest incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the outstanding principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed the interest rate percentage set forth in subdivision (d) of Section 16731.

~~(c) This section shall become inoperative on June 30, 2013, and, as of January 1, 2014, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2014, deletes or extends the dates on which it becomes inoperative and is repealed.~~

SEC. 5. Section 5924 of the Government Code, as added by Section 2 of Chapter 633 of the Statutes of 2009, is repealed.

~~5924. (a) (1) Notwithstanding Section 13340, there is hereby continuously appropriated without regard to fiscal years, from the General Fund in the State Treasury for the purpose of this chapter, an amount that will equal the sum annually as will be necessary~~

~~to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state under or in connection with any credit enhancement or liquidity agreement, as specified in paragraph (2), that is entered into by the state pursuant to this chapter for bonds payable pursuant to an appropriation from the General Fund.~~

~~(2) A credit enhancement or liquidity agreement subject to this section includes a credit enhancement or liquidity agreement that is in the form of a letter of credit, standby purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement.~~

~~(b) (1) If the agent for sale determines that the credit enhancement or liquidity agreement is expected to result in a lower cost of the borrowing for the bonds to which the credit enhancement or liquidity agreement pertains, the state may incur fees, costs, and other similar expenses under or in connection with any credit enhancement or liquidity agreement entered into by the state pursuant to this chapter.~~

~~(2) The amount appropriated pursuant to subdivision (a) for fees, costs, and other similar expenses incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the original principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed the percentage set forth in paragraph (1) of subdivision (g) of Section 147 of Title 26 of the United States Code enacted as of January 1, 2003.~~

~~(3) The amount appropriated pursuant to subdivision (a) for interest incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the outstanding principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed the interest rate percentage set forth in subdivision (d) of Section 16731.~~

~~(c) This section shall become operative June 30, 2013.~~

SEC. 6. Section 5924 of the Government Code, as added by Section 2 of Chapter 646 of the Statutes of 2009, is repealed.

~~5924. (a) (1) Notwithstanding Section 13340, there is hereby continuously appropriated without regard to fiscal years, from the General Fund in the State Treasury for the purpose of this chapter, an amount that will equal the sum annually as will be necessary~~

~~to pay all obligations, including principal, interest, fees, costs, indemnities, and all other amounts incurred by the state under or in connection with any credit enhancement or liquidity agreement, as specified in paragraph (2), that is entered into by the state pursuant to this chapter for bonds payable pursuant to an appropriation from the General Fund.~~

~~(2) A credit enhancement or liquidity agreement subject to this section includes a credit enhancement or liquidity agreement that is in the form of a letter of credit, standby purchase agreement, reimbursement agreement, liquidity facility, or other similar arrangement.~~

~~(b) (1) If the agent for sale determines that the credit enhancement or liquidity agreement is expected to result in a lower cost of the borrowing for the bonds to which the credit enhancement or liquidity agreement pertains, the state may incur fees, costs, and other similar expenses under or in connection with any credit enhancement or liquidity agreement entered into by the state pursuant to this chapter.~~

~~(2) The amount appropriated pursuant to subdivision (a) for fees, costs, and other similar expenses incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the original principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed the percentage set forth in paragraph (1) of subdivision (g) of Section 147 of Title 26 of the United States Code enacted as of January 1, 2003.~~

~~(3) The amount appropriated pursuant to subdivision (a) for interest incurred in connection with any credit enhancement or liquidity agreement, when expressed as a percentage of the outstanding principal amount of the bonds to which the credit enhancement or liquidity agreement pertains, may not exceed the interest rate percentage set forth in subdivision (d) of Section 16731.~~

~~(c) This section shall become operative June 30, 2013.~~

SEC. 7. Section 8169.7 is added to the Government Code, to read:

8169.7. (a) The department may sell all or a portion of the following properties located in the County of Sacramento, City of Sacramento, State of California, and leased by the department to the Capitol Area Development Authority:

(1) Parcel 1. Approximately 0.14 acres of land, not including improvements thereon, located at 1510 14th Street, and identified by Sacramento County Assessor Parcel Number 006-0224-026.

(2) Parcel 2. Approximately 0.22 acres of land, not including improvements thereon, located at 1530 N Street and 1412 16th Street, and identified by Sacramento County Assessor Parcel Numbers 006-0231-008 and 006-0231-009.

(3) Parcel 3. Approximately 0.15 acres of land, not including improvements thereon, located at 1416 17th Street and 1631 O Street, and identified by Sacramento County Assessor Parcel Numbers 006-0233-012 and 006-0233-013.

(4) Parcel 4. Approximately 0.59 acres of land, not including improvements thereon, located at 1609 O Street, and identified by Sacramento County Assessor Parcel Number 006-0233-026.

(5) Parcel 5. Approximately 0.07 acres of land, not including improvements thereon, located at 1612 14th Street, and identified by Sacramento County Assessor Parcel Number 006-0284-011.

(6) Parcel 6. Approximately 0.30 acres of land, not including improvements thereon, located at 1616, 1622, and 1626 14th Street and 1325 and 1331 Q Street, and identified by Sacramento County Assessor Parcel Numbers 006-0284-012, 006-0284-013, 006-0284-014, 006-0284-015, and 006-0284-016.

(b) The properties shall be sold for market value, or upon terms and conditions as the director, with concurrence of the Department of Finance, determines are in the best interest of the state.

(c) The department may offer the property for sale pursuant to a public bidding process designed to obtain the highest return for the state. Any transaction based on such a bidding process shall be deemed to be the market value. The director, at the director's sole discretion, may reject all bids received if it is in the best interest of the state to do so.

(d) The department shall be reimbursed for any cost or expense incurred in the disposition of any parcels from the sale proceeds.

(e) The Director of Finance may provide a loan from the General Fund in the amount of not more than two hundred thousand dollars ($200,000) to augment Item 1760-001-0002 of Section 2.00 of the Budget Act of 2012 and may adjust the amounts appropriated in Item 1760-001-0002 of Section 2.00 of the Budget Act of 2012, for the purposes of supporting the management of the state's real property footprint reduction to accommodate any

increase in workload or other costs to the department in implementing this section.

(f) The disposition of the properties shall be made on an "as is" basis, and any sale shall be exempt from Chapter 3 (commencing with Section 21100) to Chapter 6 (commencing with Section 21165), inclusive, of Division 13 of the Public Resources Code.

(g) As to any property sold pursuant to this section, the director shall except and reserve to the state all mineral deposits possessed by the state, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. The rights to prospect for, mine, and remove the deposits shall be limited to those areas of the property conveyed that the director, after consultation with the State Lands Commission, determines to be reasonably necessary for the removal of the deposits.

(h) The disposition of the properties pursuant to this section shall not constitute a sale or other disposition of surplus state property pursuant to Section 11011.

(i) The net proceeds of any moneys received from the disposition of any parcels described in this section shall be deposited in the General Fund or the Deficit Recovery Fund as determined by the Department of Finance.

SEC. 8. Section 8879.58 of the Government Code is amended to read:

8879.58. (a) (1) No later than September 1 of the first fiscal year in which the Legislature appropriates funds from the Transit System Safety, Security, and Disaster Response Account, and no later than September 1 of each fiscal year thereafter in which funds are appropriated from that account, the Controller shall develop and make public a list of eligible agencies and transit operators and the amount of funds each is eligible to receive from the account pursuant to subdivision (a) of Section 8879.57. It is the intent of the Legislature that funds allocated to specified recipients pursuant to this section provide each recipient with the same proportional share of funds as the proportional share each received from the allocation of State Transit Assistance funds, pursuant to Sections 99313 and 99314 of the Public Utilities Code, over fiscal years 2004–05, 2005–06, and 2006–07.

(2) In establishing the amount of funding each eligible recipient is to receive under subdivision (a) of Section 8879.57 from

appropriated funds to be allocated based on Section 99313 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99313 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(3) In establishing the amount of funding each eligible recipient is eligible to receive under subdivision (a) of Section 8879.57 from funds to be allocated based on Section 99314 of the Public Utilities Code, the Controller shall make the following computations:

(A) For each eligible recipient, compute the amounts of State Transit Assistance funds allocated to that recipient pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(B) Compute the total statewide allocation of State Transit Assistance funds pursuant to Section 99314 of the Public Utilities Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

(C) Divide subparagraph (A) by subparagraph (B).

(D) For each eligible recipient, multiply the allocation factor computed pursuant to subparagraph (C) by 50 percent of the amount available for allocation pursuant to subdivision (a) of Section 8879.57.

(4) The Controller shall notify eligible recipients of the amount of funding each is eligible to receive pursuant to subdivision (a) of Section 8879.57 for the duration of time that these funds are made available for these purposes based on the computations pursuant to subparagraph (D) of paragraph (2) and subparagraph (D) of paragraph (3).

(b) Prior to seeking a disbursement of funds for an eligible project, an agency or transit operator on the public list described in paragraph (1) of subdivision (a) shall submit to the California

Emergency Management Agency a description of the project it proposes to fund with its share of funds from the account. The description shall include all of the following:

(1) A summary of the proposed project that describes the safety, security, or emergency response benefit that the project intends to achieve.

(2) That the useful life of the project shall not be less than the required useful life for capital assets specified in subdivision (a) of Section 16727.

(3) The estimated schedule for the completion of the project.

(4) The total cost of the proposed project, including identification of all funding sources necessary for the project to be completed.

(c) After receiving the information required to be submitted under subdivision (b), the agency shall review the information to determine all of the following:

(1) The project is consistent with the purposes described in subdivision (h) of Section 8879.23.

(2) The project is an eligible capital expenditure, as described in subdivision (a) of Section 8879.57.

(3) The project is a capital improvement that meets the requirements of paragraph (2) of subdivision (b).

(4) The project, or a useful component thereof, is, or will become, fully funded with an allocation of funds from the Transit System Safety, Security, and Disaster Response Account.

(d) (1) Upon conducting the review required in subdivision (c) and determining that a proposed project meets the requirements of that subdivision, the agency shall, on a quarterly basis, provide the Controller with a list of projects and the sponsoring agencies or transit operators eligible to receive an allocation from the account.

(2) The list of projects submitted to the Controller for allocation for any one fiscal year shall be constrained by the total amount of funds appropriated by the Legislature for the purposes of this section for that fiscal year.

(3) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, the agency shall prioritize projects contained on the lists submitted pursuant to paragraph (1) so that (A) projects addressing the greatest risks to the public *and that demonstrate the ability and intent to expend*

a significant percentage of project funds within six months have the highest priority and (B) to the maximum extent possible, the list reflects a distribution of funding that is geographically balanced.

(e) Upon receipt of the information from the agency required by subdivision (d), the Controller's office shall commence any necessary actions to allocate funds to eligible agencies and transit operators sponsoring projects on the list of projects, including, but not limited to, seeking the issuance of bonds for that purpose. The total allocations to any one eligible agency or transit operator shall not exceed that agency's or transit operator's share of funds from the account pursuant to the formula contained in subdivision (a) of Section 8879.57.

(f) During each fiscal year that an agency or transit operator receives funds pursuant to this section, the California Emergency Management Agency may monitor the project expenditures to ensure compliance with this section.

~~(f)~~

(g) The Controller's office may, pursuant to Section 12410, use its authority to audit the use of state bond funds on projects receiving an allocation under this section. Each eligible agency or transit operator sponsoring a project subject to an audit shall provide any and all data requested by the Controller's office in order to complete the audit. The Controller's office shall transmit copies of all completed audits to the agency and to the policy committees of the Legislature with jurisdiction over transportation and budget issues.

SEC. 9. Section 8879.59 of the Government Code is amended to read:

8879.59. (a) For funds appropriated from the Transit System Safety, Security, and Disaster Response Account for allocation to transit agencies eligible to receive funds pursuant to subdivision (b) of Section 8879.57, the California Emergency Management Agency (Cal EMA) shall administer a grant application and award program for those transit agencies.

(b) Funds awarded to transit agencies pursuant to this section shall be for eligible capital expenditures as described in subdivision (b) of Section 8879.57.

(c) Prior to allocating funds to projects pursuant to this section, Cal EMA shall adopt guidelines to establish the criteria and process for the distribution of funds described in this section. Prior to adopting the guidelines, Cal EMA shall hold a public hearing on the proposed guidelines.

(d) For each fiscal year in which funds are appropriated for the purposes of this section, Cal EMA shall issue a notice of funding availability no later than October 1.

(e) No later than December 1 of each fiscal year in which the notice in subdivision (d) is issued, eligible transit agencies may submit project nominations for funding to Cal EMA for its review and consideration. Project nominations shall include all of the following:

(1) A description of the project, which shall illustrate the physical components of the project and the security or emergency response benefit to be achieved by the completion of the project.

(2) Identification of all nonbond sources of funding committed to the project.

(3) An estimate of the project's full cost and the proposed schedule for the project's completion.

(f) For a fiscal year in which the number of projects submitted for funding under this section exceeds available funds, Cal EMA shall prioritize projects so that projects addressing the greatest risks to the public and that demonstrate the ability and intent to expend a significant percentage of project funds within six months have the highest priority.

~~(f)~~

(g) No later than February 1, Cal EMA shall select eligible projects to receive grants under this section and shall provide the Controller with a list of the projects and the sponsoring agencies eligible to receive an allocation from the account. Upon receipt of this information, the Controller's office shall commence any necessary actions to allocate funds to those agencies, including, but not limited to, seeking the issuance of bonds for that purpose. Grants awarded to eligible transit agencies pursuant to subdivision (b) of Section 8879.57 shall be for eligible capital expenditures, as described in paragraph (2) of subdivision (b) of that section.

(h) During each fiscal year that a transit agency receives funds pursuant to this section, Cal EMA may monitor the project expenditures to ensure project funds are expended in compliance with the submitted project nomination.

SEC. 10. Section 11270 of the Government Code is amended to read:

11270. As used in this article, "administrative costs" means the amounts expended by the Legislature, the Legislative Counsel Bureau, the ~~office of the Governor~~ *Governor's Office*, the ~~office of the State Chief Information Officer~~ *California Technology Agency*, the Office of Planning and Research, the Department of Justice, the ~~office of the Controller~~ *State Controller's Office*, the ~~office of the Treasurer~~ *State Treasurer's Office*, the State Personnel Board, the Department of Finance, *the Financial Information System for California*, the Office of Administrative Law, the Department of ~~Personnel Administration~~ *Human Resources*, the Secretary of ~~the~~ State and Consumer Services ~~Agency~~, the Secretary of ~~the~~ California Health and Human Services ~~Agency~~, the Bureau of State Audits, and the California State Library, and a proration of any other cost to or expense of the state for services or facilities provided for the Legislature and the above agencies, for supervision or administration of the state government or for services to other state agencies.

SEC. 11. Section 11546 of the Government Code is amended to read:

11546. (a) The California Technology Agency shall be responsible for the approval and oversight of information technology projects, which shall include, but are not limited to, all of the following:

(1) Establishing and maintaining a framework of policies, procedures, and requirements for the initiation, approval, implementation, management, oversight, and continuation of information technology projects. *Unless otherwise required by law, a state department shall not procure oversight services of information technology projects without the approval of the California Technology Agency.*

(2) Evaluating information technology projects based on the business case justification, resources requirements, proposed technical solution, project management, oversight and risk mitigation approach, and compliance with statewide strategies, policies, and procedures. Projects shall continue to be funded through the established Budget Act process.

(3) Consulting with agencies during initial project planning to ensure that project proposals are based on well-defined

programmatic needs, clearly identify programmatic benefits, and consider feasible alternatives to address the identified needs and benefits consistent with statewide strategies, policies, and procedures.

(4) Consulting with agencies prior to project initiation to review the project governance and management framework to ensure that it is best designed for success and will serve as a resource for agencies throughout the project implementation.

(5) Requiring agencies to provide information on information technology projects including, but not limited to, all of the following:

(A) The degree to which the project is within approved scope, cost, and schedule.

(B) Project issues, risks, and corresponding mitigation efforts.

(C) The current estimated schedule and costs for project completion.

(6) Requiring agencies to perform remedial measures to achieve compliance with approved project objectives. These remedial measures may include, but are not limited to, any of the following:

(A) Independent assessments of project activities, the cost of which shall be funded by the agency administering the project.

(B) Establishing remediation plans.

(C) Securing appropriate expertise, the cost of which shall be funded by the agency administering the project.

(D) Requiring additional project reporting.

(E) Requiring approval to initiate any action identified in the approved project schedule.

(7) Suspending, reinstating, or terminating information technology projects. The agency shall notify the Joint Legislative Budget Committee of any project suspension, reinstatement, and termination within 30 days of that suspension, reinstatement, or termination.

(8) Establishing restrictions or other controls to mitigate nonperformance by agencies, including, but not limited to, any of the following:

(A) The restriction of future project approvals pending demonstration of successful correction of the identified performance failure.

(B) The revocation or reduction of authority for state agencies to initiate information technology projects or acquire information technology or telecommunications goods or services.

(b) The California Technology Agency shall have the authority to delegate to another agency any authority granted under this section based on its assessment of the agency's project management, project oversight, and project performance.

SEC. 12. Section 12531 is added to the Government Code, to read:

12531. (a) The Legislature finds and declares that California, represented by the California Attorney General, entered a national multistate settlement with the country's five largest loan servicers. This agreement, the National Mortgage Settlement stemmed from successful resolution of federal court action (Consent Judgment, United States v. Bank of America (No. 1:12-cv-00361, Banzr. D.C. Apr. 4, 2012). The National Mortgage Settlement is broad ranging, with California's share of this settlement estimated to be up to eighteen billion dollars ($18,000,000,000). Of this amount, approximately four hundred ten million dollars ($410,000,000) will come directly to the state in costs, fees, and penalty payments.

(b) There is hereby created in the State Treasury the National Mortgage Special Deposit Fund. Notwithstanding Section 13340, all moneys in the fund are hereby continuously appropriated, and shall be allocated by the Department of Finance.

(c) Direct payments made to the State of California as civil penalties pursuant to the National Mortgage Settlement shall be deposited in the Unfair Competition Law Fund as required by the settlement.

(d) Direct payments made to the State of California pursuant to the National Mortgage Settlement, except for those payments made pursuant to subdivision (c), shall be deposited in the National Mortgage Special Deposit Fund.

(e) Notwithstanding any other law, the Director of Finance may allocate or otherwise use the funds in the National Mortgage Special Deposit Fund to offset General Fund expenditures in the 2011–12, 2012–13, and 2013–14 fiscal years. The Department of Finance and the Controller's office shall recognize this fiscal alignment accordingly for the purpose of the state budget process and legal basis of accounting.

(f) Not less than 30 days prior to allocating any moneys pursuant to subdivision (e), the Department of Finance shall submit an expenditure plan to the Joint Legislative Budget Committee detailing the proposed use of the moneys in the National Mortgage Special Deposit Fund.

(g) Notwithstanding any other law, the Controller may use the funds in the National Mortgage Special Deposit Fund for cashflow loans to the General Fund as provided in Sections 16310 and 16381.

SEC. 13. Section 13071 of the Government Code is amended to read:

13071. *The Director of Finance shall be responsible for coordinating state agency internal audits and identifying when agencies are required to comply with federally mandated audits.* The Director of Finance, in coordinating the internal auditors of state agencies, shall ensure that these auditors utilize the "Standards for the Professional Practices of Internal Auditing."

SEC. 14. Section 13300.5 is added to the Government Code, to read:

13300.5. (a) The Legislature finds and declares that the project of the FISCal Project to modernize the state's internal financial systems is a critical project that must be subject to the highest level of oversight. According to the California Technology Agency, the size and scope of this modernization and automation effort make this project one of the highest risk projects undertaken by the state. Therefore, the Legislature must take steps to ensure it is fully informed as the project is implemented. It is the intent of the Legislature to adopt additional reporting requirements for the FISCal Project Office to adequately manage the project's risk and to ensure the successful implementation of this effort.

(b) The FISCal Project Office shall report to the Legislature, by February 15 of each year, an update on the project. The report shall include all of the following:

(1) An executive summary and overview of the project's status.

(2) An overview of the project's history.

(3) Significant events of the project within the current reporting period and a projection of events during the next reporting period.

(4) A discussion of mitigation actions being taken by the project for any missed major milestones.

(5) A comparison of actual to budgeted expenditures, and an explanation of variances and any planned corrective actions, including a summary of FISCal project and staffing levels and an estimate of staff participation from partner agencies.

(6) An articulation of expected functionality and qualitative benefits from the project that were achieved during the reporting period and that are expected to be achieved in the subsequent year.

(7) An overview of change management activities and stakeholder engagement in the project, including a summary of departmental participation in the FISCal project.

(8) A discussion of lessons learned and best practices that will be incorporated into future changes in management activities.

(9) A description of any significant software customization, including a justification for why, if any, customization was granted.

(10) Updates on the progress of meeting the project objectives, including the objectives provided in paragraph (1) of subdivision (c) of Section 15849.22.

(c) The initial report, due February 15, 2013, shall provide a description of the approved project scope. Later reports shall describe any later deviations to the project scope, cost, or schedule.

(d) The initial report shall also provide a summary of the project history from Special Project Report 1 to Special Project Report 4, inclusive.

(e) This section shall remain in effect until a postimplementation evaluation report has been approved by the California Technology Agency. The California Technology Agency shall post a notice on its Internet Web site when the report is approved.

SEC. 15. Section 15849.6 of the Government Code, as added by Section 13 of Chapter 726 of the Statutes of 2010, is repealed.

~~15849.6. Notwithstanding any provision of this part to the contrary, the board may issue bonds, notes, or other obligations to finance the acquisition or construction of a public building, facility, or equipment as authorized by the Legislature, in the total amount authorized by the Legislature, and any additional amount authorized by the board to pay the cost of financing. This additional amount may include interest during acquisition or interest prior to, during, and for a period of six months after construction of the public building, facility, or equipment, interest payable on any interim loan for the public building, facility, or equipment from the General Fund or from the Pooled Money Investment Account,~~

~~a reasonably required reserve fund, and the costs of issuance of any interim financing and permanent financing after completion of the construction or acquisition of the public building, facility, or equipment.~~

~~This section shall be applicable to, but not limited to, bonds, notes, or obligations of the board that were authorized by appropriations of the Legislature made prior to the effective date of this section.~~

SEC. 16. Section 15849.6 of the Government Code, as added by Section 2 of Chapter 727 of the Statutes of 2010, is amended to read:

15849.6. Notwithstanding any provision of this part to the contrary, the board may issue bonds, notes, or other obligations to finance the acquisition, *design,* or construction of a public building~~, facility, or equipment~~ as authorized by the Legislature, in the total amount authorized by the Legislature, and any additional amount authorized by the board to pay the cost of financing. This additional amount may include interest during acquisition or interest prior to, during, and for a period of six months after construction of the public building~~, facility, or equipment~~, interest payable on any interim loan *or interim financing* for the public building~~, facility, or equipment from the General Fund or from the Pooled Money Investment Account~~, a reasonably required reserve fund, and the costs of issuance of any interim financing and permanent financing ~~after completion of the construction or acquisition of the public building, facility, or equipment~~.

This section shall be applicable to, but not limited to, bonds, notes, or obligations of the board that were authorized by appropriations of the Legislature made prior to the effective date of this section.

SEC. 17. Section 15849.65 is added to the Government Code, to read:

15849.65. (a) Notwithstanding any provision of this part to the contrary, when a public building for the University of California is authorized, in full or in part, to be financed under this part, the board may issue bonds, notes, or other obligations to reimburse any debt service related to obligations issued or entered into by the Regents of the University of California as interim financing for the public building. In addition to the amount *authorized by the Legislature for a public building for the University of California, the board may authorize an additional amount to pay related interest and issuance costs associated with the obligations issued or entered into by the Regents of the University of California.*

(b) This section shall be applicable to, but not limited to, bonds, notes, or obligations of the board that were authorized by appropriations of the Legislature made prior to the effective date of this section.

(c) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 18. Section 17581 of the Government Code is amended to read:

17581. (a) No local agency shall be required to implement or give effect to any statute or executive order, or portion thereof, during any fiscal year and for the period immediately following that fiscal year for which the Budget Act has not been enacted for the subsequent fiscal year if all of the following apply:

(1) The statute or executive order, or portion thereof, has been determined by the Legislature, the commission, or any court to mandate a new program or higher level of service requiring reimbursement of local agencies pursuant to Section 6 of Article XIII B of the California Constitution.

(2) The statute or executive order, or portion thereof, or the commission's test claim number, has been specifically identified by the Legislature in the Budget Act for the fiscal year as being one for which reimbursement is not provided for that fiscal year. For purposes of this paragraph, a mandate shall be considered to have been specifically identified by the Legislature only if it has been included within the schedule of reimbursable mandates shown in the Budget Act and it is specifically identified in the language of a provision of the item providing the appropriation for mandate reimbursements.

(b) Within 30 days after enactment of the Budget Act, the Department of Finance shall notify local agencies of any statute or executive order, or portion thereof, for which operation of the mandate is suspended because reimbursement is not provided for that fiscal year pursuant to this section and Section 6 of Article XIII B of the California Constitution.

(c) Notwithstanding any other provision of law, if a local agency elects to implement or give effect to a statute or executive order described in subdivision (a), the local agency may assess fees to persons or entities which benefit from the statute or executive order. Any fee assessed pursuant to this subdivision shall not exceed the costs reasonably borne by the local agency.

(d) This section shall not apply to any state-mandated local program for the trial courts, as specified in Section 77203.

(e) This section shall not apply to any state-mandated local program for which the reimbursement funding counts toward the minimum General Fund requirements of Section 8 of Article XVI of the Constitution.

(f) All state-mandated local programs suspended in the Budget Act for the 2012–13 fiscal year shall also be suspended in the 2013–14 and 2014–15 fiscal years.

SEC. 19. Section 17617 of the Government Code is amended to read:

17617. The total amount due to each city, county, city and county, and special district, for which the state has determined that reimbursement is required under paragraph (2) of subdivision (b) of Section 6 of Article XIII B of the California Constitution, shall be appropriated for payment to these entities over a period of not more than 15 years, commencing with the Budget Act for the 2006–07 fiscal year and concluding with the Budget Act for the 2020–21 fiscal year. *There shall be no appropriation for payment of reimbursement claims submitted pursuant to this section for the 2012-13, 2013-14, and 2014-15 fiscal years.*

SEC. 20. Section 19849 of the Government Code is amended to read:

19849. (a) The department shall adopt rules governing hours of work and overtime compensation and the keeping of records related thereto, including time and attendance records. Each appointing power shall administer and enforce such rules.

(b) Notwithstanding any other law, the department shall adopt a plan for the period from July 1, 2012, to June 30, 2013, inclusive, by which all state employees not subject to the Personal Leave Program 2012 (PLP 2012 Program), as described in subdivision (c) of Section 19851, shall be furloughed for one workday per

calendar month. The department shall further adopt rules for the implementation, administration, and enforcement of this furlough plan. This subdivision shall not apply to retired annuitants or to employees of entities listed in Section 3.90 of the Budget Act of 2012.

~~(b) If~~

(c) Except as provided in subdivision (b), if the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if such provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 21. Section 19851 of the Government Code is amended to read:

19851. (a) It is the policy of the state, *except during the operation of subdivision (c),* that the workweek of the state employee shall be 40 hours, and the workday of state employees eight hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different state agencies. It is the policy of the state to avoid the necessity for overtime work whenever possible. This policy does not restrict the extension of regular working-hour schedules on an overtime basis in those activities and agencies where it is necessary to carry on the state business properly during a manpower shortage.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(c) Notwithstanding any other law, for the period from July 1, 2012, to June 30, 2013, inclusive, a state employee shall participate in the Personal Leave Program 2012 (PLP 2012 Program), either as required by an applicable memorandum of understanding reached pursuant to Section 3517.5 or by the direction of the department for excluded employees. Under the PLP 2012 Program,

each employee shall receive a reduction in pay not greater than 5 percent. In exchange for this reduction in pay, each employee shall receive eight hours of PLP 2012 Program leave credits on the first day of each monthly pay period. This subdivision shall not apply to retired annuitants or to employees of entities listed in Section 3.90 of the Budget Act of 2012.

SEC. 22. Section 50087 of the Government Code is repealed.

~~50087. Every city, county, or city and county which has at least 5,000 residents or in which 5 percent of the population is of Filipino ancestry or ethnic origin, according to the last federal census, and which conducts any survey as to the ancestry or ethnic origin of its employees, or which maintains any statistical tabulation of minority group employees, shall categorize employees whose ancestry or ethnic origin is Filipino as Filipinos in such survey or tabulation.~~

SEC. 23. Section 51298 of the Government Code is amended to read:

51298. It is the intent of the Legislature in enacting this chapter to provide local governments with opportunities to attract *either* large manufacturing *or research and development* facilities to invest in their communities and to encourage industries, such as high technology, aerospace, automotive, biotechnology, software, environmental sources, and others, to locate and invest in those facilities in California.

(a) Commencing in the 1998–99 fiscal year, the governing body of a county, city and county, or city, may, by means of an ordinance or resolution approved by a majority of its entire membership, elect to establish a capital investment incentive program. In any county, city and county, or city in which the governing body has so elected, the county, city and county, or city shall, upon the approval by a majority of the entire membership of its governing body of a written request therefor, pay a capital investment incentive amount to the proponent of a qualified manufacturing *facility or a qualified research and development* facility for up to 15 consecutive fiscal years. A request for the payment of capital investment incentive amounts shall be filed by a proponent in writing with the governing body of an electing county, city and county, or city in the time and manner specified in procedures adopted by that governing body. In the case in which the governing body of an electing county, city and county, or city approves a request for the payment of capital investment incentive amounts, both of the following conditions shall apply:

(1) The consecutive fiscal years during which a capital investment incentive amount is to be paid shall commence with the first fiscal year commencing after the date upon which the qualified manufacturing *facility or the qualified research and development* facility is certified for occupancy or, if no certification is issued, the first fiscal year commencing after the date upon which the qualified manufacturing facility *or the qualified research and development facility* commences operation.

(2) In accordance with paragraph (4) of subdivision (d), the annual payment to a proponent of each capital investment incentive amount shall be contingent upon the proponent's payment of a community services fee.

(b) For purposes of this section:

(1) "Qualified manufacturing facility" means a proposed manufacturing facility that meets all of the following criteria:

(A) The proponent's initial investment in that facility, in real and personal property, necessary for the full and normal operation of that facility, made pursuant to the capital investment incentive program, that comprises any portion of that facility or has its situs at that facility, exceeds ~~one~~ *two* hundred fifty million dollars ~~($150,000,000)~~ *($250,000,000)*. Compliance with this subparagraph shall be certified by the ~~Business, Transportation and Housing Agency~~ *Governor's Office of Business and Economic Development* upon the ~~agency's~~ *director's* approval of a proponent's application for certification of a qualified manufacturing facility. An application for certification shall be submitted by a proponent to the ~~agency~~ *Governor's Office of Business and Economic Development* in writing in the time and manner as specified by the ~~agency~~ *director*.

(B) The facility is to be located within the jurisdiction of the electing county, city and county, or city to which the request is made for payment of capital investment incentive amounts.

(C) The facility is operated by any of the following:

(i) A business described in Codes 3500 to 3899, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, except that "January 1, 1997," shall be substituted for "January 1, 1994," in each place in which it appears.

(ii) A business engaged in the recovery of minerals from geothermal resources, including the proportional amount of a geothermal electric generating plant that is integral to the recovery process by providing electricity for it.

(iii) A business engaged in the manufacturing of parts or components related to the production of electricity using solar, wind, biomass, hydropower, or geothermal resources on or after July 1, 2010.

(D) The proponent is ~~either~~ currently engaged in *any of the following: (i)* commercial production ~~or engaged in~~, *(ii)* the perfection of the manufacturing process, or *(iii)* the perfection of a product intended to be manufactured.

(2) "Qualified research and development facility" means a proposed research and development facility that meets all of the following criteria:

(A) The proponent's initial investment in that facility, in real and personal property, necessary for the full and normal operation of that facility, made pursuant to the capital investment incentive program, that comprises any portion of that facility or has its situs at that facility, exceeds two hundred fifty million dollars ($250,000,000). Compliance with this subparagraph shall be certified by the Governor's Office of Business and Economic Development upon the director's approval of a proponent's application for certification of a qualified research and development facility. An application for certification shall be submitted by a proponent to the Governor's Office of Business and Economic Development in writing in the time and manner specified by the director.

(B) The facility is to be located within the jurisdiction of the electing county, city and county, or city to which the request is made for payment of capital investment incentive amounts.

(C) The facility is operated by a business described in Code 7371, 7373, or 8711 of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, except that "January 1, 1997," shall be substituted for "January 1, 1994," in each place in which it appears.

(D) The proponent is currently engaged in research and development.

~~(2)~~

(3) "Proponent" means a party or parties that meet all of the following criteria:

(A) The party is named in the application to the county, city and county, or city within which the qualified manufacturing *facility or the qualified research and development* facility would be located for a permit to construct a qualified manufacturing *facility or a qualified research and development* facility.

(B) The party will be the fee owner of the qualified manufacturing *facility or the qualified research and development* facility upon the completion of that facility. Notwithstanding the previous sentence, the party may enter into a sale-leaseback transaction and nevertheless be considered the proponent.

(C) If a proponent that is receiving capital investment incentive amounts subsequently leases the subject qualified manufacturing *facility or qualified research and development* facility to another party, the lease may provide for the payment to that lessee of any portion of a capital investment incentive amount. Any lessee receiving any portion of a capital investment incentive amount shall also be considered a proponent for the purposes of subdivision (d).

~~(3)~~

(4) "Capital investment incentive amount" means, with respect to a qualified manufacturing *facility or a qualified research and development* facility for a relevant fiscal year, an amount up to or equal to the amount of ad valorem property tax revenue derived by the participating local agency from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) *or subparagraph (A) of paragraph (2)* that is in excess of ~~one hundred fifty~~ *twenty-five* million dollars ~~($150,000,000)~~ *($25,000,000)*.

(5) "Development" means a systematic application of knowledge or understanding, directed toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

~~(4)~~

(6) "Manufacturing" means the activity of converting or conditioning property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail.

Manufacturing includes any improvements to tangible personal property that result in a greater service life or greater functionality than that of the original property.

(7) "Research" means either basic research or applied research.

(A) "Applied research" means a systematic study to gain knowledge or understanding necessary to determine the means by which a recognized and specific need may be met.

(B) "Basic research" means a systematic study directed toward fuller knowledge or understanding of the fundamental aspects of phenomena and of observable facts without specific applications toward processes or products in mind.

(c) A city or special district may, upon the approval by a majority of the entire membership of its governing body, pay to the county, city and county, or city an amount equal to the amount of ad valorem property tax revenue allocated to that city or special district, but not the actual allocation, derived from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) of subdivision (b) *or subparagraph (A) of paragraph (2) of subdivision (b)* that is in excess of ~~one hundred fifty~~ *twenty-five* million dollars ~~($150,000,000)~~ *($25,000,000)*.

(d) A proponent whose request for the payment of capital investment incentive amounts is approved by an electing county, city and county, or city shall enter into a community services agreement with that county, city and county, or city that includes, but is not limited to, all of the following provisions:

(1) A provision requiring that a community services fee be remitted by the proponent to the county, city and county, or city, in each fiscal year ~~subject to the agreement~~, in an amount that is equal to 25 percent of the capital investment incentive amount calculated for that proponent for that fiscal year, except that in no fiscal year shall the amount of the community services fee exceed two million dollars ($2,000,000).

(2) A provision specifying the dates in each relevant fiscal year upon which payment of the community services fee is due and delinquent, and the rate of interest to be charged to a proponent for any delinquent portion of the community services fee amount.

(3) A provision specifying the procedures and rules for the determination of underpayments or overpayments of a community

services fee, for the appeal of determinations of any underpayment, and for the refunding or crediting of any overpayment.

(4) A provision specifying that a proponent is ineligible to receive a capital investment incentive amount if that proponent is currently delinquent in the payment of any portion of a community services fee amount, if the qualified manufacturing *facility or the qualified research and development* facility is constructed in a manner materially different from the facility as described in building permit application materials, or if the facility is no longer operated as a qualified manufacturing *facility or a qualified research and development* facility meeting the requirements of paragraph (1) *or (2)* of subdivision (b)*, as applicable*. If a proponent becomes ineligible to receive a capital investment incentive amount as a result of an agreement provision included pursuant to this subparagraph, the running of the number of consecutive fiscal years specified in an agreement made pursuant to subdivision (a) is not tolled during the period in which the proponent is ineligible.

(5) A provision that sets forth a job creation plan with respect to the relevant qualified manufacturing *facility or the qualified research and development* facility. The plan shall specify the number of jobs to be created by that facility, and the types of jobs and compensation ranges to be created thereby. The plan shall also specify that for the entire term of the community services agreement, both of the following shall apply:

(A) All of the employees working at the qualified manufacturing *facility or the qualified research and development* facility shall be covered by an employer-sponsored health benefits plan.

(B) The average weekly wage, exclusive of overtime, paid to all of the employees working at the qualified manufacturing *facility or the qualified research and development* facility, who are not management or supervisory employees, shall be not less than the state average weekly wage.

For the purpose of this subdivision, “state average weekly wage” means the average weekly wage paid by employers to employees covered by unemployment insurance, as reported to the Employment Development Department for the four calendar quarters ending June 30 of the preceding calendar year.

(6) (A) In the case in which the proponent fails to operate the qualified manufacturing *facility or the qualified research and*

development facility as required by the community services agreement, a provision that requires the recapture of any portion of any capital investment incentive amounts previously paid to the proponent equal to the lesser of the following:

(i) All of the capital investment incentive amounts paid to the proponent, less all of the community services fees received from the proponent, and less any capital investment incentive amounts previously recaptured.

(ii) The last capital investment incentive amount paid to the proponent, less the last community services fee received from the proponent, multiplied by 40 percent of the number of years remaining in the community services agreement, but not to exceed 10 years, and less any capital investment incentive amounts previously recaptured.

(B) If the proponent fails to operate the qualified manufacturing *facility or the qualified research and development* facility as required by the community services agreement, the county, city and county, or city may, upon a finding that good cause exists, waive any portion of the recapture of any capital investment incentive amount due under this subdivision. For the purpose of this subdivision, good cause includes, but is not limited to, the following:

(i) The proponent has sold or leased the property to a person who has entered into an agreement with the county, city and county, or city to assume all of the responsibilities of the proponent under the community services agreement.

(ii) The qualified manufacturing *facility or the qualified research and development* facility has been rendered inoperable and beyond repair as a result of an act of God.

(C) For purposes of this subdivision, failure to operate a qualified manufacturing *facility or a qualified research and development* facility as required by the community services agreement includes, but is not limited to, failure to establish the number of jobs specified in the jobs creation plan created pursuant to paragraph (5).

(e) (1) Each county, city and county, or city that elects to establish a capital investment incentive program shall notify the ~~Business, Transportation and Housing Agency~~ *Governor's Office of Business and Economic Development* of its election to do so no later than June ~~30th~~ *30* of the fiscal year in which the election was made.

(2) In addition to the information required to be reported pursuant to paragraph (1), each county, city and county, or city that has elected to establish a capital investment incentive program shall notify the ~~Business, Transportation and Housing Agency~~ *Governor's Office of Business and Economic Development* each fiscal year no later than June ~~30th~~ *30* of the amount of any capital investment incentive payments made and the proponent of the qualified manufacturing *facility or the qualified research and development* facility to whom the payments were made during that fiscal year.

(3) The ~~Business, Transportation and Housing Agency~~ *Governor's Office of Business and Economic Development* shall compile the information submitted by each county, city and county, and city pursuant to paragraphs (1) and (2) and submit a report to the Legislature containing this information no later than October 1, every two years commencing October 1, 2000.

(f) This section is repealed on June 30, 2013.

SEC. 24. Section 51298 is added to the Government Code, to read:

51298. It is the intent of the Legislature in enacting this chapter to provide local governments with opportunities to attract large manufacturing facilities to invest in their communities and to encourage industries, such as high technology, aerospace, automotive, biotechnology, software, environmental sources, and others, to locate and invest in those facilities in California.

(a) Commencing in the 1998–99 fiscal year, the governing body of a county, city and county, or city, may, by means of an ordinance or resolution approved by a majority of its entire membership, elect to establish a capital investment incentive program. In any county, city and county, or city in which the governing body has so elected, the county, city and county, or city shall, upon the approval by a majority of the entire membership of its governing body of a written request therefor, pay a capital investment incentive amount to the proponent of a qualified manufacturing facility for up to 15 consecutive fiscal years. A request for the payment of capital investment incentive amounts shall be filed by a proponent in writing with the governing body of an electing county, city and county, or city in the time and manner specified

in procedures adopted by that governing body. In the case in which the governing body of an electing county, city and county, or city approves a request for the payment of capital investment incentive amounts, both of the following conditions shall apply:

(1) The consecutive fiscal years during which a capital investment incentive amount is to be paid shall commence with the first fiscal year commencing after the date upon which the qualified manufacturing facility is certified for occupancy or, if no certification is issued, the first fiscal year commencing after the date upon which the qualified manufacturing facility commences operation.

(2) In accordance with paragraph (4) of subdivision (d), the annual payment to a proponent of each capital investment incentive amount shall be contingent upon the proponent's payment of a community services fee.

(b) For purposes of this section:

(1) "Qualified manufacturing facility" means a proposed manufacturing facility that meets all of the following criteria:

(A) The proponent's initial investment in that facility, in real and personal property, necessary for the full and normal operation of that facility, made pursuant to the capital investment incentive program, that comprises any portion of that facility or has its situs at that facility, exceeds one hundred fifty million dollars ($150,000,000). Compliance with this subparagraph shall be certified by the Business, Transportation and Housing Agency upon the agency's approval of a proponent's application for certification of a qualified manufacturing facility. An application for certification shall be submitted by a proponent to the agency in writing in the time and manner as specified by the agency.

(B) The facility is to be located within the jurisdiction of the electing county, city and county, or city to which the request is made for payment of capital investment incentive amounts.

(C) The facility is operated by any of the following:

(i) A business described in Codes 3500 to 3899, inclusive, of the Standard Industrial Classification (SIC) Manual published by the United States Office of Management and Budget, 1987 edition, except that "January 1, 1997," shall be substituted for "January 1, 1994," in each place in which it appears.

(ii) A business engaged in the recovery of minerals from geothermal resources, including the proportional amount of a

geothermal electric generating plant that is integral to the recovery process by providing electricity for it.

(iii) A business engaged in the manufacturing of parts or components related to the production of electricity using solar, wind, biomass, hydropower, or geothermal resources on or after July 1, 2010.

(D) The proponent is either currently engaged in commercial production or engaged in the perfection of the manufacturing process, or the perfection of a product intended to be manufactured.

(2) "Proponent" means a party or parties that meet all of the following criteria:

(A) The party is named in the application to the county, city and county, or city within which the qualified manufacturing facility would be located for a permit to construct a qualified manufacturing facility.

(B) The party will be the fee owner of the qualified manufacturing facility upon the completion of that facility. Notwithstanding the previous sentence, the party may enter into a sale-leaseback transaction and nevertheless be considered the proponent.

(C) If a proponent that is receiving capital investment incentive amounts subsequently leases the subject qualified manufacturing facility to another party, the lease may provide for the payment to that lessee of any portion of a capital investment incentive amount. Any lessee receiving any portion of a capital investment incentive amount shall also be considered a proponent for the purposes of subdivision (d).

(3) "Capital investment incentive amount" means, with respect to a qualified manufacturing facility for a relevant fiscal year, an amount up to or equal to the amount of ad valorem property tax revenue derived by the participating local agency from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) that is in excess of one hundred fifty million dollars ($150,000,000).

(4) "Manufacturing" means the activity of converting or conditioning property by changing the form, composition, quality, or character of the property for ultimate sale at retail or use in the manufacturing of a product to be ultimately sold at retail. Manufacturing includes any improvements to tangible personal

property that result in a greater service life or greater functionality than that of the original property.

(c) A city or special district may, upon the approval by a majority of the entire membership of its governing body, pay to the county, city and county, or city an amount equal to the amount of ad valorem property tax revenue allocated to that city or special district, but not the actual allocation, derived from the taxation of that portion of the total assessed value of that real and personal property described in subparagraph (A) of paragraph (1) of subdivision (b) that is in excess of one hundred fifty million dollars ($150,000,000).

(d) A proponent whose request for the payment of capital investment incentive amounts is approved by an electing county, city and county, or city shall enter into a community services agreement with that county, city and county, or city that includes, but is not limited to, all of the following provisions:

(1) A provision requiring that a community services fee be remitted by the proponent to the county, city and county, or city, in each fiscal year subject to the agreement, in an amount that is equal to 25 percent of the capital investment incentive amount calculated for that proponent for that fiscal year, except that in no fiscal year shall the amount of the community services fee exceed two million dollars ($2,000,000).

(2) A provision specifying the dates in each relevant fiscal year upon which payment of the community services fee is due and delinquent, and the rate of interest to be charged to a proponent for any delinquent portion of the community services fee amount.

(3) A provision specifying the procedures and rules for the determination of underpayments or overpayments of a community services fee, for the appeal of determinations of any underpayment, and for the refunding or crediting of any overpayment.

(4) A provision specifying that a proponent is ineligible to receive a capital investment incentive amount if that proponent is currently delinquent in the payment of any portion of a community services fee amount, if the qualified manufacturing facility is constructed in a manner materially different from the facility as described in building permit application materials, or if the facility is no longer operated as a qualified manufacturing facility meeting the requirements of paragraph (1) of subdivision (b). If a proponent becomes ineligible to receive a capital investment incentive amount

as a result of an agreement provision included pursuant to this subparagraph, the running of the number of consecutive fiscal years specified in an agreement made pursuant to subdivision (a) is not tolled during the period in which the proponent is ineligible.

(5) A provision that sets forth a job creation plan with respect to the relevant qualified manufacturing facility. The plan shall specify the number of jobs to be created by that facility, and the types of jobs and compensation ranges to be created thereby. The plan shall also specify that for the entire term of the community services agreement, both of the following shall apply:

(A) All of the employees working at the qualified manufacturing facility shall be covered by an employer-sponsored health benefits plan.

(B) The average weekly wage, exclusive of overtime, paid to all of the employees working at the qualified manufacturing facility, who are not management or supervisory employees, shall be not less than the state average weekly wage.

For the purpose of this subdivision, "state average weekly wage" means the average weekly wage paid by employers to employees covered by unemployment insurance, as reported to the Employment Development Department for the four calendar quarters ending June 30 of the preceding calendar year.

(6) (A) In the case in which the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, a provision that requires the recapture of any portion of any capital investment incentive amounts previously paid to the proponent equal to the lesser of the following:

(i) All of the capital investment incentive amounts paid to the proponent, less all of the community services fees received from the proponent, and less any capital investment incentive amounts previously recaptured.

(ii) The last capital investment incentive amount paid to the proponent, less the last community services fee received from the proponent, multiplied by 40 percent of the number of years remaining in the community services agreement, but not to exceed 10 years, and less any capital investment incentive amounts previously recaptured.

(B) If the proponent fails to operate the qualified manufacturing facility as required by the community services agreement, the county, city and county, or city may, upon a finding that good

cause exists, waive any portion of the recapture of any capital investment incentive amount due under this subdivision. For the purpose of this subdivision, good cause includes, but is not limited to, the following:

(i) The proponent has sold or leased the property to a person who has entered into an agreement with the county, city and county, or city to assume all of the responsibilities of the proponent under the community services agreement.

(ii) The qualified manufacturing facility has been rendered inoperable and beyond repair as a result of an act of God.

(C) For purposes of this subdivision, failure to operate a qualified manufacturing facility as required by the community services agreement includes, but is not limited to, failure to establish the number of jobs specified in the jobs creation plan created pursuant to paragraph (5).

(e) (1) Each county, city and county, or city that elects to establish a capital investment incentive program shall notify the Business, Transportation and Housing Agency of its election to do so no later than June 30th of the fiscal year in which the election was made.

(2) In addition to the information required to be reported pursuant to paragraph (1), each county, city and county, or city that has elected to establish a capital investment incentive program shall notify the Business, Transportation and Housing Agency each fiscal year no later than June 30th of the amount of any capital investment incentive payments made and the proponent of the qualified manufacturing facility to whom the payments were made during that fiscal year.

(3) The Business, Transportation and Housing Agency shall compile the information submitted by each county, city and county, and city pursuant to paragraphs (1) and (2) and submit a report to the Legislature containing this information no later than October 1, every two years commencing October 1, 2000.

(f) This section shall become operative on July 1, 2013.

SEC. 25. Section 76104.7 of the Government Code is amended to read:

76104.7. (a) Except as otherwise provided in this section, in addition to the penalty levied pursuant to Section 76104.6, there shall be levied an additional state-only penalty of ~~three~~ *four* dollars ~~($3)~~ *($4)* for every ten dollars ($10), or part of ten dollars ($10), in each county upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code.

(b) This additional penalty shall be collected together with, and in the same manner as, the amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal Code. These funds shall be deposited into the county treasury DNA Identification Fund. One hundred percent of these funds, including any interest earned thereon, shall be transferred to the state Controller at the same time that moneys are transferred pursuant to paragraph (2) of subdivision (b) of Section 76104.6, for deposit into the state's DNA Identification Fund. These funds shall be used to fund the operations of the Department of Justice forensic laboratories, including the operation of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, and to facilitate compliance with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

(c) This additional penalty does not apply to the following:

(1) Any restitution fine.

(2) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

(3) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

(4) The state surcharge authorized by Section 1465.7 of the Penal Code.

(d) The fees collected pursuant to this section shall not be subject to subdivision (e) of Section 1203.1d of the Penal Code, but shall be disbursed under paragraph (3) of subdivision (b) of Section 1203.1d of the Penal Code.

SEC. 26. Section 11873 of the Insurance Code is amended to read:

11873. (a) Except as provided by subdivision (b), the fund shall not be subject to the provisions of the Government Code made applicable to state agencies generally or collectively, unless the section specifically names the fund as an agency to which the provision applies.

(b) The fund shall be subject to the provisions of Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of, Chapter 6.5 (commencing with Section 8543) of Division 1 of Title 2 of, Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of, the Government Code, and Division 5 (commencing with Section 18000) of Title 2 of the Government Code, with the exception of all of the following provisions of that division:

(1) Article 1 (commencing with Section 19820) and Article 2 (commencing with Section 19823) of Chapter 2 of Part 2.6 of Division 5.

(2) Sections 19849.2, 19849.3, 19849.4, and 19849.5.

(3) Chapter 4.5 (commencing with Section 19993.1) of Part 2.6 of Division 5.

(c) ~~Notwithstanding~~ *Except as provided in subdivisions (d) and (e) for the period from July 1, 2012, to June 30, 2013, inclusive, and notwithstanding* any provision of the Government Code or any other provision of law, the positions funded by the State Compensation Insurance Fund are exempt from any hiring freezes and staff cutbacks otherwise required by law. This subdivision is declaratory of existing law.

(d) Notwithstanding any other law, employees of the fund shall, without limitation, be subject to any and all reductions in state employee compensation imposed by the Legislature on other state employees for the period from July 1, 2012, to June 30, 2013, inclusive, regardless of the means adopted to effect those reductions.

(e) With the exception of the reductions authorized in subdivision (d), if any provision of this section, or any practice or procedure adopted pursuant to this section, is in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5 of the Government Code, the memorandum of understanding shall be controlling without further legislative action, except that if the provisions of a memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 27. Section 62.9 of the Labor Code is amended to read:

62.9. (a) (1) The director shall levy and collect assessments from employers in accordance with this section. The total amount of the assessment collected shall be the amount determined by the director to be necessary to produce the revenue sufficient to fund the programs specified by Section 62.7, except that the amount assessed in any year for those purposes shall not exceed 50 percent of the amounts appropriated from the General Fund for the support of the occupational safety and health program for the 1993–94 fiscal year, adjusted for inflation. The director also shall include in the total assessment amount the department's costs for administering the assessment, including the collections process and the cost of reimbursing the ~~Franchise Tax Board~~ *Employment Development Department* or another agency or department for its cost of collection activities pursuant to subdivision (c).

(2) The insured employers and private sector self-insured employers that, pursuant to subdivision (b), are subject to assessment shall be assessed, respectively, on the basis of their annual payroll subject to premium charges or their annual payroll that would be subject to premium charges if the employer were insured, as follows:

(A) An employer with a payroll of less than two hundred fifty thousand dollars ($250,000) shall be assessed one hundred dollars ($100).

(B) An employer with a payroll of two hundred fifty thousand dollars ($250,000) or more, but not more than five hundred thousand dollars ($500,000), shall be assessed two hundred dollars ($200).

(C) An employer with a payroll of more than five hundred thousand dollars ($500,000), but not more than seven hundred fifty thousand dollars ($750,000), shall be assessed four hundred dollars ($400).

(D) An employer with a payroll of more than seven hundred fifty thousand dollars ($750,000), but not more than one million dollars ($1,000,000), shall be assessed six hundred dollars ($600).

(E) An employer with a payroll of more than one million dollars ($1,000,000), but not more than one million five hundred thousand dollars ($1,500,000), shall be assessed eight hundred dollars ($800).

(F) An employer with a payroll of more than one million five hundred thousand dollars ($1,500,000), but not more than two million dollars ($2,000,000), shall be assessed one thousand dollars ($1,000).

(G) An employer with a payroll of more than two million dollars ($2,000,000), but not more than two million five hundred thousand dollars ($2,500,000), shall be assessed one thousand five hundred dollars ($1,500).

(H) An employer with a payroll of more than two million five hundred thousand dollars ($2,500,000), but not more than three million five hundred thousand dollars ($3,500,000), shall be assessed two thousand dollars ($2,000).

(I) An employer with a payroll of more than three million five hundred thousand dollars ($3,500,000), but not more than four million five hundred thousand dollars ($4,500,000), shall be assessed two thousand five hundred dollars ($2,500).

(J) An employer with a payroll of more than four million five hundred thousand dollars ($4,500,000), but not more than five million five hundred thousand dollars ($5,500,000), shall be assessed three thousand dollars ($3,000).

(K) An employer with a payroll of more than five million five hundred thousand dollars ($5,500,000), but not more than seven million dollars ($7,000,000), shall be assessed three thousand five hundred dollars ($3,500).

(L) An employer with a payroll of more than seven million dollars ($7,000,000), but not more than twenty million dollars ($20,000,000), shall be assessed six thousand seven hundred dollars ($6,700).

(M) An employer with a payroll of more than twenty million dollars ($20,000,000) shall be assessed ten thousand dollars ($10,000).

(b) (1) In the manner as specified by this section, the director shall identify those insured employers having a workers' compensation experience modification rating of 1.25 or more, and private sector self-insured employers having an equivalent experience modification rating of 1.25 or more as determined pursuant to subdivision (e).

(2) The assessment required by this section shall be levied annually, on a calendar year basis, on those insured employers and private sector self-insured employers, as identified pursuant to paragraph (1), having the highest workers' compensation experience modification ratings or equivalent experience

modification ratings, that the director determines to be required numerically to produce the total amount of the assessment to be collected pursuant to subdivision (a).

(c) The director shall collect the assessment from insured employers as follows:

(1) Upon the request of the director, the Department of Insurance shall direct the licensed rating organization designated as the department's statistical agent to provide to the director, for purposes of subdivision (b), a list of all insured employers having a workers' compensation experience rating modification of 1.25 or more, according to the organization's records at the time the list is requested, for policies commencing the year preceding the year in which the assessment is to be collected.

(2) The director shall determine the annual payroll of each insured employer subject to assessment from the payroll that was reported to the licensed rating organization identified in paragraph (1) for the most recent period for which one full year of payroll information is available for all insured employers.

(3) On or before September 1 of each year, the director shall determine each of the current insured employers subject to assessment, and the amount of the total assessment for which each insured employer is liable. The director immediately shall notify each insured employer, in a format chosen by the insurer, of the insured's obligation to submit payment of the assessment to the director within 30 days after the date the billing was mailed, and warn the insured of the penalties for failure to make timely and full payment as provided by this subdivision.

(4) The director shall identify any insured employers that, within 30 days after the mailing of the billing notice, fail to pay, or object to, their assessments. The director shall mail to each of these employers a notice of delinquency and a notice of the intention to assess penalties, advising that, if the assessment is not paid in full within 15 days after the mailing of the notices, the director will levy against the employer a penalty equal to 25 percent of the employer's assessment, and will refer the assessment and penalty to ~~the Franchise Tax Board or~~ another agency or department for collection. The notices required by this paragraph shall be sent by United States first-class mail.

(5) If an assessment is not paid by an insured employer within 15 days after the mailing of the notices required by paragraph (4),

the director shall refer the delinquent assessment and the penalty to the ~~Franchise Tax Board~~ *Employment Development Department*, or another agency or department, as deemed appropriate by the director, for collection pursuant to ~~Section 19290.1 of the Revenue and Taxation Code, or~~ Section 1900 of the Unemployment Insurance Code.

(d) The director shall collect the assessment directly from private sector self-insured employers. The failure of any private sector self-insured employer to pay the assessment as billed constitutes grounds for the suspension or termination of the employer's certificate to self-insure.

(e) The director shall adopt regulations implementing this section that include provision for a method of determining experience modification ratings for private sector self-insured employers that is generally equivalent to the modification ratings that apply to insured employers and is weighted by both severity and frequency.

(f) The director shall determine whether the amount collected pursuant to any assessment exceeds expenditures, as described in subdivision (a), for the current year and shall credit the amount of any excess to any deficiency in the prior year's assessment or, if there is no deficiency, against the assessment for the subsequent year.

SEC. 28. Section 972.1 of the Military and Veterans Code, as amended by Section 1 of Chapter 183 of the Statutes of 2009, is amended to read:

972.1. (a) The sum of five hundred thousand dollars ($500,000) is hereby appropriated from the General Fund to the Department of Veterans Affairs for allocation, during the 1989–90 fiscal year, for purposes of funding the activities of county ~~veteran~~ *veterans* service ~~officers~~ *offices* pursuant to this section. Funds for allocation in future years shall be as provided in the annual Budget Act.

(b) Funds shall be disbursed each fiscal year on a pro rata basis to counties that have established and maintain a county ~~veteran~~ *veterans* service ~~officer~~ *office* in accordance with the staffing level and workload of each county ~~veteran~~ *veterans* service ~~officer~~ *office* under a formula based upon performance that shall be developed by the Department of Veterans Affairs for these purposes.

(1) For the purposes of this section, "workload unit" means a specific claim activity that is used to allocate subvention funds to

counties, which is approved by the department, and performed by county veterans service offices.

(2) For the purposes of this subdivision, the department, by June 30, 2013, shall develop a performance-based formula that will incentivize county veterans service offices to perform workload units that help veterans access federal compensation and pension benefits and other benefits, in order to maximize the amount of federal money received by California veterans.

(c) The department shall annually determine the amount of new or increased monetary benefits paid to eligible veterans by the federal government attributable to the assistance of county ~~veteran~~ *veterans* service ~~officers~~ *offices*. The department shall, on or before January 1 of each year, prepare and transmit its determination for the preceding fiscal year to the Department of Finance and the Legislature. The Department of Finance shall review the department's determination in time to use the information in the annual Budget Act for the budget of the department for the next fiscal year.

(d) The department shall conduct a review of the high-performing and low-performing county veterans service offices and based on this review, shall produce a best-practices manual for county veterans service offices by June 30, 2013.

~~(d)~~

(e) (1) The Legislature finds and declares that 50 percent of the amount annually budgeted for county ~~veteran~~ *veterans* service ~~officers~~ *offices* is approximately eleven million dollars ($11,000,000). The Legislature further finds and declares that it is an efficient and reasonable use of state funds to increase the annual budget for county ~~veteran~~ *veterans* service ~~officers~~ *offices* in an amount not to exceed eleven million dollars ($11,000,000) if it is justified by the monetary benefits to the state's veterans attributable to the effort of these ~~officers~~ *offices*.

(2) It is the intent of the Legislature, after reviewing the department's determination in subdivision (c), to consider an increase in the annual budget for county ~~veteran~~ *veterans* service ~~officers~~ *offices* in an amount not to exceed five million dollars ($5,000,000), if the monetary benefits to the state's veterans attributable to the assistance of county ~~veteran~~ *veterans* service ~~officers~~ *offices* justify that increase in the budget.

~~(e)~~

(f) This section shall remain in effect only until January 1, 2016, and as of that date is repealed.

SEC. 29. Section 6611 of the Public Contract Code is amended to read:

6611. (a) Notwithstanding any other provision of law, the Department of General Services may, relative to contracts for goods, services, information technology, and telecommunications, use a negotiation process if the department finds that one or more of the following conditions exist:

(1) The business need or purpose of a procurement or contract can be further defined as a result of a negotiation process.

(2) The business need or purpose of a procurement or contract is known by the department, but a negotiation process may identify different types of solutions to fulfill this business need or purpose.

(3) The complexity of the purpose or need suggests a bidder's costs to prepare and develop a solicitation response are extremely high.

(4) The business need or purpose of a procurement or contract is known by the department, but negotiation is necessary to ensure that the department is receiving the best value or the most cost-efficient goods, services, information technology, and telecommunications.

(b) When it is in the best interests of the state, the department may negotiate amendments to the terms and conditions, including scope of work, of existing contracts for goods, services, information technology, and telecommunications, whether or not the original contract was the result of competition, on behalf of itself or another state agency.

(c) (1) The department shall establish the procedures and guidelines for the negotiation process described in subdivision (a), which procedures and guidelines shall include, but not be limited to, a clear description of the methodology that will be used by the department to evaluate a bid for the procurement goods, services, information technology, and telecommunications.

(2) The procedures and guidelines described in paragraph (1) may include provisions that authorize the department to receive supplemental bids after the initial bids are opened. If the procedures and guidelines include these provisions, the procedures and guidelines shall specify the conditions under which supplemental bids may be received by the department.

(d) An unsuccessful bidder shall have no right to protest the results of the negotiating process undertaken pursuant to this section. As a remedy, an unsuccessful bidder may file a petition for a writ of mandate in accordance with Section 1085 of the Code of Civil Procedure. The venue for the petition for a writ of mandate shall be Sacramento, California. An action filed pursuant to this subdivision shall be given preference by the court.

(e) (1) The California Technology Agency may utilize the negotiation process described in subdivisions (a) and (b) for the purpose of procuring information technology and telecommunications goods and services on behalf of state departments and information technology projects.

(2) Nothing in this section shall be interpreted to supersede the department's existing statutory control over procurement processes as dictated in Section 12100.

(f) On or before January 1, 2013, and annually thereafter, the California Technology Agency and the Department of General Services shall report to the relevant budget subcommittees of each house of the Legislature on the use of subdivision (e) during budget hearings.

(g) Subdivisions (e) and (f) shall remain in effect only until January 1, 2018, unless an enacted statute deletes or extends that date. Procurements still in the negotiation process pursuant to subdivision (e) on January 1, 2018, shall complete negotiations using that process.

SEC. 30. Section 8352.3 of the Revenue and Taxation Code is amended to read:

8352.3. *(a)* Subject to Sections 8352 and 8352.1, *and except as otherwise provided in subdivision (b),* all moneys deposited to the credit of the Motor Vehicle Fuel Account attributable to the distribution of motor vehicle fuel for use or used in propelling an aircraft in the state shall be transferred to the Aeronautics Account in the State Transportation Fund, for allocation as follows:

~~(a) To pay the refunds authorized by Section 8101.5.~~

~~(b)~~

(1) To pay the pro rata cost of the Controller and the board under subdivisions (b), (c), and (d) of Section 8352.1.

~~(c)~~

(2) To pay for the support of the Department of Transportation, for the administration of the State Aeronautics Act (Division 9 (commencing with Section 21001) of the Public Utilities Code).

~~(d)~~

(3) Remaining balance to be available for expenditures in accordance with ~~Sections~~ *Section* 21602~~,~~ and ~~21682 to 21684, inclusive,~~ *Article 4 (commencing with Section 21680) of Chapter 4 of Part 1 of Division 9* of the Public Utilities Code.

(b) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Aeronautics Account pursuant to subdivision (a) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Aeronautics Account in the 2010–11 and 2011–12 fiscal years shall be transferred to the General Fund.

SEC. 31. Section 8352.4 of the Revenue and Taxation Code is amended to read:

8352.4. *(a)* Subject to Sections 8352 and 8352.1, *and except as otherwise provided in subdivision (b),* there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Harbors and Watercraft Revolving Fund, for expenditure in accordance with Division 1 (commencing with Section 30) of the Harbors and Navigation Code, the sum of six million six hundred thousand dollars ($6,600,000) per annum, representing the amount of money in the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The actual amount shall be calculated using the annual reports of registered boats prepared by the Department of Motor Vehicles for the United States Coast Guard and the formula and method of the December 1972 report prepared for this purpose and submitted to the Legislature on December 26, 1972, by the Director of Transportation. If the amount transferred during each fiscal year is in excess of the calculated amount, the excess shall be retransferred from the Harbors and Watercraft Revolving Fund to the Motor Vehicle Fuel Account. If the amount transferred is less than the amount calculated, the difference shall be transferred from the Motor Vehicle Fuel Account to the Harbors and Watercraft

Revolving Fund. No adjustment shall be made if the computed difference is less than fifty thousand dollars ($50,000), and the amount shall be adjusted to reflect any temporary or permanent increase or decrease that may be made in the rate under the Motor Vehicle Fuel Tax Law. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Harbors and Watercraft Revolving Fund pursuant to subdivision (a) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Harbors and Watercraft Revolving Fund in the 2010–11 and 2011–12 fiscal years shall be transferred to the General Fund.

~~When~~

(c) When deemed necessary by the Department of Transportation and the Department of Boating and Waterways, the Department of Transportation, after consultation with the Department of Boating and Waterways, shall prepare, or cause to be prepared, an updated report setting forth the current estimate of the amount of money credited to the Motor Vehicle Fuel Account attributable to taxes imposed on distributions of motor vehicle fuel used or usable in propelling vessels. The Department of Transportation shall submit the report to the Legislature upon its completion.

SEC. 32. Section 8352.5 of the Revenue and Taxation Code is amended to read:

8352.5. *(a) (1)* Subject to Sections 8352 and 8352.1, *and except as otherwise provided in subdivision (b)*, there shall be transferred from the money deposited to the credit of the Motor Vehicle Fuel Account to the Department of Food and Agriculture Fund, during the second quarter of each fiscal year, an amount equal to the estimate contained in the most recent report prepared pursuant to this section.

~~The~~

(2) The amounts are not subject to Section 6357 with respect to the collection of sales and use taxes thereon, and represent the portion of receipts in the Motor Vehicle Fuel Account during a calendar year that were attributable to agricultural off-highway use of motor vehicle fuel which is subject to refund pursuant to

Section 8101, less gross refunds allowed by the Controller during the fiscal year ending June 30th following the calendar year to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101. Payments pursuant to this section shall be made prior to payments pursuant to Section 8352.2.

(b) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 and otherwise to be deposited in the Department of Food and Agriculture Fund pursuant to subdivision (a) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Department of Food and Agriculture Fund in the 2010–11 and 2011–12 fiscal years shall be transferred to the General Fund.

~~On~~

(c) On or before September 30, 2012, and on or before September ~~30th~~ *30* of each ~~odd-numbered~~ *even-numbered* year *thereafter*, the Director of Transportation and the Director of Food and Agriculture shall jointly prepare, or cause to be prepared, a report setting forth the current estimate of the amount of money in the Motor Vehicle Fuel Account attributable to agricultural off-highway use of motor vehicle fuel, which is subject to refund pursuant to Section 8101 less gross refunds allowed by the Controller to persons entitled to refunds for agricultural off-highway use pursuant to Section 8101; and they shall submit a copy of the report to the Legislature.

SEC. 33. Section 8352.6 of the Revenue and Taxation Code is amended to read:

8352.6. (a) (1) Subject to Section 8352.1, *and except as otherwise provided in paragraphs (2) and (3),* on the first day of every month, there shall be transferred from moneys deposited to the credit of the Motor Vehicle Fuel Account to the Off-Highway Vehicle Trust Fund created by Section 38225 of the Vehicle Code an amount attributable to taxes imposed upon distributions of motor vehicle fuel used in the operation of motor vehicles off highway and for which a refund has not been claimed. Transfers made pursuant to this section shall be made prior to transfers pursuant to Section 8352.2.

(2) Commencing July 1, 2012, the revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and

Section 7361.1 and otherwise to be deposited in the Off-Highway Vehicle Trust Fund pursuant to paragraph (1) shall instead be transferred to the General Fund. The revenues attributable to the taxes imposed pursuant to subdivision (b) of Section 7360 and Section 7361.1 that were deposited in the Off-Highway Vehicle Trust Fund in the 2010–11 and 2011–12 fiscal years shall be transferred to the General Fund.

~~(2)~~

(3) The Controller shall withhold eight hundred thirty-three thousand dollars ($833,000) from ~~this~~ *the* monthly transfer *to the Off-Highway Vehicle Trust Fund pursuant to paragraph (1)*, and transfer that amount to the General Fund.

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

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

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

(3) Attendance at the state vehicular recreation areas.

(4) Off-highway recreation use on federal lands as indicated by the United States Forest Service's National Visitor Use Monitoring and the United States Bureau of Land Management's Recreation Management Information System.

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

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

SEC. 34. Article 6 (commencing with Section 19290) of Chapter 5 of Part 10.2 of Division 2 of the Revenue and Taxation Code is repealed.

SEC. 35. Section 19533 of the Revenue and Taxation Code is amended to read:

19533. *(a)* In the event the debtor has more than one debt being collected by the Franchise Tax Board and the amount collected by the Franchise Tax Board is insufficient to satisfy the total amount owing, the amount collected shall be applied in the following priority:

~~(a)~~

(1) Payment of any delinquencies transferred for collection under Article 5 (commencing with Section 19270) of Chapter 5.

~~(b)~~

(2) Payment of any taxes, additions to tax, penalties, interest, fees, or other amounts due and payable under Part 7.5 (commencing with Section 13201), Part 10 (commencing with Section 17001), Part 11 (commencing with Section 23001), or this part, and amounts authorized to be collected under Section 19722.

~~(c) Payment of delinquent wages collected pursuant to the Labor Code.~~

~~(d)~~

(3) Payment of delinquencies collected under Section 10878.

~~(e)~~

(4) Payment of any amounts due that are referred for collection under Article 5.5 (commencing with Section 19280) of Chapter 5.

~~(f) Payment of any amounts that are referred for collection pursuant to Section 62.9 of the Labor Code.~~

~~(g) Payment of delinquent penalties collected for the Department of Industrial Relations pursuant to the Labor Code.~~

~~(h) Payment of delinquent fees collected for the Department of Industrial Relations pursuant to the Labor Code.~~

~~(i) Payment of delinquencies referred by the Student Aid Commission.~~

~~(j)~~

(5) Payment of any delinquencies referred for collection under Article 7 (commencing with Section 19291) of Chapter 5.

~~(k)~~

(b) Notwithstanding the payment priority established by this section, voluntary payments designated by the taxpayer as payment for a personal income tax liability or as a payment on amounts authorized to be collected under Section 19722, shall not be applied pursuant to this priority, but shall instead be applied as designated.

SEC. 36. Item 7300-001-0001 of Section 2.00 of the Budget Act of 2012 is amended to read:

7300-001-0001—For support of Agricultural Labor Relations Board		4,904,000
Schedule:		
(1) 10-Board Administration	~~2,138,000~~ *1,938,000*	
(2) 20-General Counsel Administration	~~2,766,000~~ *2,966,000*	
(3) 30.01-Administration Services	275,000	
(4) 30.02-Distributed Administration Services	−275,000	

SEC. 37. Section 36 of this act shall become operative only if Assembly Bill 1464 or Senate Bill 1004 of the 2011–12 Regular Session is enacted as the Budget Act of 2012, and Assembly Bill 1497 or Senate Bill 1037 of the 2011–12 Regular Session are enacted and amend the Budget Act of 2012.

SEC. 38. The sum of one thousand dollars ($1,000) is hereby appropriated from the General Fund to the Department of Finance to implement this bill.

SEC. 39. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.

All matter omitted in this version of the bill appears in the bill as amended in the Senate, June 13, 2012. (JR11)

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