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Introduced by Senator Galgiani

August 20, 2013

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Senate Concurrent Resolution No. 69—Relative to prisoners.

LEGISLATIVE COUNSEL’S DIGEST

SCR 69, as introduced, Galgiani. Prisoners: overcrowding.

This measure would urge the Attorney General to instruct law enforcement agencies to refer to the relevant United States Attorneys’ Offices in this state all firearm, ammunition, and robbery cases for their review before commencing state prosecution. The measure would urge the Attorney General to seek a reduction in the prisoner population in the state prisons of at least 20,000 inmates by shifting these inmates to federal prisons, and report the results of these efforts.

Fiscal committee: yes.

1 WHEREAS, In *Brown v. Plata* (2011) 131 S.Ct. 1910, the United  
2 States Supreme Court affirmed a lower federal district court panel’s  
3 order that California reduce its prison population by approximately  
4 10,000 inmates; and  
5 WHEREAS, In dissenting from the decisions affirming the  
6 order, Justices Antonin Scalia and Clarence Thomas noted that the  
7 release of such a large number of inmates would create serious  
8 public safety concerns; and  
9 WHEREAS, The State of California is required to spend  
10 hundreds of millions of taxpayer dollars to house prisoners in  
11 private facilities or out of state, or by reopening or building new  
12 facilities, thus depriving the people of the state the use of that  
13 money for other services; and

1 WHEREAS, The State of California has an obligation to adopt  
2 measures to stabilize and ultimately reduce the factors that have  
3 resulted in the increased prison population by, among other things,  
4 the adoption of substance abuse treatment measures, mental health  
5 care, and other measures that do not compromise public safety;  
6 and

7 WHEREAS, The Legislature and the voters have taken steps to  
8 reform the state’s sentencing practices and increase prison capacity  
9 through numerous measures, and making these adjustments,  
10 including measures to reduce recidivism and to prevent crime, will  
11 take several years; and

12 WHEREAS, The State of California is a “donor” state to the  
13 United States Treasury, in that California pays far more in taxes  
14 to the United States Treasury than it receives in federal  
15 expenditures and grants; and

16 WHEREAS, A large number of prisoners within the California  
17 prison system have also committed violations of federal law, such  
18 as being a “prohibited person” in violation of ammunition or  
19 firearms laws, or violating the Hobbs Act, and under federal  
20 sentencing guidelines, the Armed Career Criminal Act, and the “3  
21 Strikes and You’re Out” law, federal sentences imposed and served  
22 for these and other crimes meet or exceed sentences imposed under  
23 California law; and

24 WHEREAS, In the prosecution of violations of federal firearms  
25 laws, Hobbs Act violations, and other federal crime provisions,  
26 the United States Attorney’s Offices in the Central and Eastern  
27 Districts of California rank near the bottom in the number of  
28 prosecutions for the 93 United States District Courts, despite the  
29 fact there is no indication that these two districts have an  
30 inordinately low number of cases subject to prosecution under  
31 those laws compared to other districts; and

32 WHEREAS, Pursuant to Section 13 of Article V of the  
33 California Constitution, subject to the powers and duties of the  
34 Governor, the Attorney General is the chief law officer of the state,  
35 and has direct supervision over every district attorney and sheriff  
36 and over those other law enforcement officers as may be designated  
37 by law in all matters pertaining to the duties of their respective  
38 offices; and

39 WHEREAS, The current state prison overcrowding is the direct  
40 result of federal authorities creating the circumstances where the

1 overcrowding now exists, resulting in the need for extraordinary  
2 measures being taken to prevent the release of a large number of  
3 dangerous offenders into society; now, therefore, be it

4 *Resolved by the Senate of the State of California, the Assembly*  
5 *thereof concurring*, That the Legislature hereby urges the Attorney  
6 General in her supervisory capacity to instruct all law enforcement  
7 agencies within the state to create procedures that require all law  
8 enforcement agencies to first refer to the relevant United States  
9 Attorney's Offices in this state all firearm, ammunition, and  
10 robbery cases for their review before commencing state  
11 prosecution; and be it further

12 *Resolved*, That the Legislature hereby urges the Attorney General  
13 to seek the reduction of the state's prison population by at least  
14 20,000 inmates by shifting these present and future offenders into  
15 the federal prison system, thus giving the state sufficient time to  
16 address the order of the federal district court and to "right size"  
17 and reform the state's prison system; and be it further

18 *Resolved*, That the Legislature urges the Attorney General to  
19 report the results of this procedure to the Legislature with detailed  
20 statistics as to the results of this procedure by county District  
21 Attorneys and United States Attorneys' Offices; and be it further

22 *Resolved*, That the Secretary of the Senate transmit copies of  
23 this resolution to the Attorney General of the State of California,  
24 the Governor of the State of California, all 58 county District  
25 Attorneys within the State of California, the President and Vice  
26 President of the United States, the Attorney General of the United  
27 States, and all United States Attorneys' Offices within the State  
28 of California.

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