



Legislative Committee Meeting

Committee
Supervisor Linda J. Seifert (Chair)
Supervisor Erin Hannigan

Staff
Michelle Heppner

April 6, 2015

1:30 pm

Solano County Administration Center
Sixth Floor Conference Center, Room 6003
675 Texas Street
Fairfield, CA 94533

AGENDA

- I. **Public Comment** (Items not on the agenda)
- II. **Update from Solano County Legislative Delegation** (Legislative representatives)
- III. **Discussion of Federal Bills and consider making a recommendation** (Waterman & Associates)
 - 1) Update on FY 15 Budget Resolution and Appropriations Process
 - 2) "Doc Fix" Legislation (Home Visiting Program funding & Children's Health Insurance Program)
 - 3) Carcieri v. Salazar Roundtable, hosted by Senate Committee on Indian Affairs
 - 4) Transportation reauthorization
 - 5) Update on Delta issues/drought legislation
- IV. **Report on State Budget and Legislation and consider making a recommendation for a position on legislation** (Paul Yoder)

Health & Social Services

[SB 12](#) ([Beall](#) D) Foster youth. (**Page 2**)
Current Analysis: 03/20/2015 [Senate Human Services \(text 3/17/2015\)](#) (**Page 40**)

[SB 23](#) ([Mitchell](#) D) CalWORKs: eligibility. (**Page 73**)
Current Analysis: 03/20/2015 [Senate Human Services \(text 12/1/2014\)](#) (**Page 78**)

[SB 24](#) ([Hill](#) D) STAKE Act: electronic cigarettes. (**Page 87**)

[SB 140](#) ([Leno](#) D) Electronic cigarettes. (**Page 114**)

[SB 151](#) ([Hernandez](#) D) Tobacco products: minimum legal age. (**Page 150**)

[SB 591](#) ([Pan](#) D) Cigarette and tobacco products taxes: California Tobacco Tax Act of 2015. (**Page 163**)

Education

[SB 111](#) ([Fuller](#) R) School facilities: military installations. (**Page 174**)
Current Analysis: 03/10/2015 [Senate Education \(text 3/4/2015\)](#) (**Page 175**)

Legislative Women's Caucus – Child Care Letter (**Page 180**)

Solano County Bill Tracking Matrix (**Page 181**)
- V. **Next Meeting** – May 4, 2015 at 1:30 pm
- VI. **Adjourn**

NOTE:

Above actions taken by the Legislative Committee will be heard by the full Board of Supervisors on April 28, 2015

AMENDED IN SENATE MARCH 17, 2015

AMENDED IN SENATE FEBRUARY 4, 2015

SENATE BILL

No. 12

Introduced by Senator Beall

(Coauthors: Senators Hertzberg and Wieckowski)

(Coauthors: Assembly Members Chu and Maienschein)

December 1, 2014

An act to amend Sections 303, 388, 388.1, 450, 607.2, 11400, 11401, 11403, and 11405 of the Welfare and Institutions Code, relating to foster youth.

LEGISLATIVE COUNSEL'S DIGEST

SB 12, as amended, Beall. Foster youth.

Existing law, the California Fostering Connections to Success Act, revises and expands the scope of various programs relating to cash assistance and other services to and for the benefit of certain foster and adopted children, and other children who have been placed in out-of-home care, including children who receive Aid to Families with Dependent Children-Foster Care (AFDC-FC), Adoption Assistance Program, California Work Opportunity and Responsibility to Kids (CalWORKs), and Kinship Guardianship Assistance Payment (Kin-GAP) benefits. Among other provisions, the act extends specified foster care benefits to youth up to 21 years of age, if specified conditions are met.

Existing law defines a nonminor dependent for these purposes as a foster child who is a current dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court pursuant to a voluntary reentry agreement, and in accordance with a transitional independent living case plan who has

attained 18 years of age while under an order of foster care placement by the juvenile court and is not older than 21 years of age. Existing law defines a nonminor former dependent or ward as a person who meets these criteria who reached 18 years of age while subject to an order for foster care placement, for whom dependency, delinquency, or transition jurisdiction has been terminated, and who is still under the general jurisdiction of the court.

This bill would revise the definition of a nonminor dependent and former nonminor dependent to include a nonminor who was subject to an order for foster care placement at any time before he or she attained 12 years of age and who has not attained 21 years of age. This bill would make conforming changes to allow a court to assume or resume dependency jurisdiction or transition jurisdiction over a nonminor who satisfies this criteria. Because the bill would expand the application of the above county administered programs, the bill would impose a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. Section 303 of the Welfare and Institutions Code
2 is amended to read:
3 303. (a) The court may retain jurisdiction over any person who
4 is found to be a ward or a dependent child of the juvenile court
5 until the ward or dependent child attains the age of 21 years.
6 (b) The court shall have within its jurisdiction any nonminor
7 dependent, as defined in subdivision (v) of Section 11400. The
8 court may terminate its dependency, delinquency, or transition
9 jurisdiction over the nonminor dependent between the time the
10 nonminor reaches the age of majority and 21 years of age. If the
11 court terminates dependency, delinquency, or transition
12 jurisdiction, the nonminor dependent shall remain under the general

1 jurisdiction of the court in order to allow for a petition under
2 subdivision (e) of Section 388.

3 (c) A nonminor who has not yet attained 21 years of age and
4 who was previously under the jurisdiction of the juvenile court
5 subject to an order for foster care placement at any time after
6 attaining 12 years of age, may petition the court pursuant to
7 subdivision (e) of Section 388 to resume dependency jurisdiction
8 over himself or herself or to assume transition jurisdiction over
9 himself or herself pursuant to Section 450.

10 (d) (1) Nothing in this code, including, but not limited to,
11 Sections 340, 366.27, and 369.5, shall be construed to provide
12 legal custody of a person who has attained 18 years of age to the
13 county welfare or probation department or to otherwise abrogate
14 any other rights that a person who has attained 18 years of age
15 may have as an adult under California law. A nonminor dependent
16 shall retain all of his or her legal decisionmaking authority as an
17 adult. The nonminor shall enter into a mutual agreement for
18 placement, as described in subdivision (u) of Section 11400, unless
19 the nonminor dependent is incapable of making an informed
20 agreement, or a voluntary reentry agreement, as described in
21 subdivision (z) of Section 11400, for placement and care in which
22 the nonminor consents to placement and care in a setting supervised
23 by, and under the responsibility of, the county child welfare
24 services department, the county probation department, or Indian
25 tribe, tribal organization, or consortium of tribes that entered into
26 an agreement pursuant to Section 10553.1.

27 (2) A nonminor dependent who remains under delinquency
28 jurisdiction in order to complete his or her rehabilitative goals and
29 is under a foster care placement order is not required to complete
30 the mutual agreement as described in subdivision (u) of Section
31 11400. His or her adult decisionmaking authority may be limited
32 by and subject to the care, supervision, custody, conduct, and
33 maintenance orders as described in Section 727.

34 (e) Unless otherwise specified, the rights of a dependent child
35 and the responsibilities of the county welfare or probation
36 department, or tribe, and other entities, toward the child and family,
37 shall also apply to nonminor dependents.

38 SEC. 2. Section 388 of the Welfare and Institutions Code is
39 amended to read:

1 388. (a) (1) Any parent or other person having an interest in
2 a child who is a dependent child of the juvenile court or a nonminor
3 dependent as defined in subdivision (v) of Section 11400, or the
4 child himself or herself or the nonminor dependent through a
5 properly appointed guardian may, upon grounds of change of
6 circumstance or new evidence, petition the court in the same action
7 in which the child was found to be a dependent child of the juvenile
8 court or in which a guardianship was ordered pursuant to Section
9 360 for a hearing to change, modify, or set aside any order of court
10 previously made or to terminate the jurisdiction of the court. The
11 petition shall be verified and, if made by a person other than the
12 child or the nonminor dependent shall state the petitioner's
13 relationship to or interest in the child or the nonminor dependent
14 and shall set forth in concise language any change of circumstance
15 or new evidence that is alleged to require the change of order or
16 termination of jurisdiction.

17 (2) When any party, including a child who is a dependent of the
18 juvenile court, petitions the court prior to an order terminating
19 parental rights, to modify the order that reunification services were
20 not needed pursuant to paragraphs (4), (5), and (6) of subdivision
21 (b) of Section 361.5, or to modify any orders related to custody or
22 visitation of the subject child, and the court orders a hearing
23 pursuant to subdivision (d), the court shall modify the order that
24 reunification services were not needed pursuant to paragraphs (4),
25 (5), and (6) of subdivision (b) of Section 361.5, or any orders
26 related to the custody or visitation of the child for whom
27 reunification services were not ordered pursuant to paragraphs (4),
28 (5), and (6) of subdivision (b) of Section 361.5, only if the court
29 finds by clear and convincing evidence that the proposed change
30 is in the best interests of the child.

31 (b) (1) Any person, including a child or a nonminor dependent
32 who is a dependent of the juvenile court, may petition the court to
33 assert a relationship as a sibling related by blood, adoption, or
34 affinity through a common legal or biological parent to a child
35 who is, or is the subject of a petition for adjudication as, a
36 dependent of the juvenile court, and may request visitation with
37 the dependent child, placement with or near the dependent child,
38 or consideration when determining or implementing a case plan
39 or permanent plan for the dependent child or make any other

1 request for an order which may be shown to be in the best interest
2 of the dependent child.

3 (2) A child or nonminor dependent who is a dependent of the
4 juvenile court may petition the court to assert a relationship as a
5 sibling related by blood, adoption, or affinity through a common
6 legal or biological parent to a child who is in the physical custody
7 of a common legal or biological parent, and may request visitation
8 with the nondependent sibling in parental custody.

9 (3) Pursuant to subdivision (b) of Section 16002, a request for
10 sibling visitation may be granted unless it is determined by the
11 court that sibling visitation is contrary to the safety and well-being
12 of any of the siblings.

13 (4) The court may appoint a guardian ad litem to file the petition
14 for a dependent child asserting a sibling relationship pursuant to
15 this subdivision if the court determines that the appointment is
16 necessary for the best interests of the dependent child. The petition
17 shall be verified and shall set forth the following:

18 (A) Through which parent he or she is related to the sibling.

19 (B) Whether he or she is related to the sibling by blood,
20 adoption, or affinity.

21 (C) The request or order that the petitioner is seeking.

22 (D) Why that request or order is in the best interest of the
23 dependent child.

24 (c) (1) Any party, including a child who is a dependent of the
25 juvenile court, may petition the court, prior to the hearing set
26 pursuant to subdivision (f) of Section 366.21 for a child described
27 by subparagraph (A) of paragraph (1) of subdivision (a) of Section
28 361.5, or prior to the hearing set pursuant to subdivision (e) of
29 Section 366.21 for a child described by subparagraph (B) or (C)
30 of paragraph (1) of subdivision (a) of Section 361.5, to terminate
31 court-ordered reunification services provided under subdivision
32 (a) of Section 361.5 only if one of the following conditions exists:

33 (A) It appears that a change of circumstance or new evidence
34 exists that satisfies a condition set forth in subdivision (b) or (e)
35 of Section 361.5 justifying termination of court-ordered
36 reunification services.

37 (B) The action or inaction of the parent or guardian creates a
38 substantial likelihood that reunification will not occur, including,
39 but not limited to, the parent's or guardian's failure to visit the

1 child, or the failure of the parent or guardian to participate regularly
2 and make substantive progress in a court-ordered treatment plan.

3 (2) In determining whether the parent or guardian has failed to
4 visit the child or participate regularly or make progress in the
5 treatment plan, the court shall consider factors that include but are
6 not limited to, the parent's or guardian's incarceration,
7 institutionalization, detention by the United States Department of
8 Homeland Security, deportation, or participation in a court-ordered
9 residential substance abuse treatment program.

10 (3) The court shall terminate reunification services during the
11 above-described time periods only upon a finding by a
12 preponderance of evidence that reasonable services have been
13 offered or provided, and upon a finding of clear and convincing
14 evidence that one of the conditions in subparagraph (A) or (B) of
15 paragraph (1) exists.

16 (4) Any party, including a nonminor dependent, as defined in
17 subdivision (v) of Section 11400, may petition the court prior to
18 the review hearing set pursuant to subdivision (d) of Section 366.31
19 to terminate the continuation of court-ordered family reunification
20 services for a nonminor dependent who has attained 18 years of
21 age. The court shall terminate family reunification services to the
22 parent or guardian if the nonminor dependent or parent or guardian
23 are not in agreement that the continued provision of court-ordered
24 family reunification services is in the best interests of the nonminor
25 dependent.

26 (5) If the court terminates reunification services, it shall order
27 that a hearing pursuant to Section 366.26 be held within 120 days.
28 On and after January 1, 2012, a hearing pursuant to Section 366.26
29 shall not be ordered if the child is a nonminor dependent. The court
30 may order a nonminor dependent who is otherwise eligible to
31 AFDC-FC benefits pursuant to Section 11403 to remain in a
32 planned, permanent living arrangement.

33 (d) If it appears that the best interests of the child or the
34 nonminor dependent may be promoted by the proposed change of
35 order, modification of reunification services, custody, or visitation
36 orders concerning a child for whom reunification services were
37 not ordered pursuant to paragraphs (4), (5), and (6) of subdivision
38 (b) of Section 361.5, recognition of a sibling relationship,
39 termination of jurisdiction, or clear and convincing evidence
40 supports revocation or termination of court-ordered reunification

1 services, the court shall order that a hearing be held and shall give
2 prior notice, or cause prior notice to be given, to the persons and
3 in the manner prescribed by Section 386, and, in those instances
4 in which the manner of giving notice is not prescribed by those
5 sections, then in the manner the court prescribes.

6 (e) (1) A nonminor who attained 12 years of age while subject
7 to an order for foster care placement and who has not attained 21
8 years of age for whom the court has dismissed dependency
9 jurisdiction pursuant to Section 391, or delinquency jurisdiction
10 pursuant to Section 607.2, or transition jurisdiction pursuant to
11 Section 452, but has retained general jurisdiction under subdivision
12 (b) of Section 303, or the county child welfare services, probation
13 department, or tribal placing agency on behalf of the nonminor,
14 may petition the court in the same action in which the child was
15 found to be a dependent or delinquent child of the juvenile court,
16 for a hearing to resume the dependency jurisdiction over a former
17 dependent or to assume or resume transition jurisdiction over a
18 former delinquent ward pursuant to Section 450. The petition shall
19 be filed within the period that the nonminor is of the age described
20 in this paragraph. If the nonminor has completed the voluntary
21 reentry agreement, as described in subdivision (z) of Section 11400,
22 with the placing agency, the agency shall file the petition on behalf
23 of the nonminor within 15 judicial days of the date the agreement
24 was signed unless the nonminor elects to file the petition at an
25 earlier date.

26 (2) (A) The petition to resume jurisdiction may be filed in the
27 juvenile court that retains general jurisdiction under subdivision
28 (b) of Section 303, or the petition may be submitted to the juvenile
29 court in the county where the youth resides and forwarded to the
30 juvenile court that retained general jurisdiction and filed with that
31 court. The juvenile court having general jurisdiction under Section
32 303 shall receive the petition from the court where the petition
33 was submitted within five court days of its submission, if the
34 petition is filed in the county of residence. The juvenile court that
35 retained general jurisdiction shall order that a hearing be held
36 within 15 judicial days of the date the petition was filed if there is
37 a prima facie showing that the nonminor satisfies the following
38 criteria:

39 (i) He or she was previously under juvenile court jurisdiction,
40 subject to an order for foster care placement at any time after the

1 youth attained 12 years of age, and has not attained the age ~~limits~~
2 *limit* described in paragraph (1).

3 (ii) He or she intends to satisfy at least one of the conditions set
4 forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
5 Section 11403.

6 (iii) He or she wants assistance either in maintaining or securing
7 appropriate supervised placement, or is in need of immediate
8 placement and agrees to supervised placement pursuant to the
9 voluntary reentry agreement as described in subdivision (z) of
10 Section 11400.

11 (B) Upon ordering a hearing, the court shall give prior notice,
12 or cause prior notice to be given, to the persons and by the means
13 prescribed by Section 386, except that notice to parents or former
14 guardians shall not be provided unless the nonminor requests, in
15 writing on the face of the petition, notice to the parents or former
16 guardians.

17 (3) The Judicial Council, by January 1, 2012, shall adopt rules
18 of court to allow for telephonic appearances by nonminor former
19 dependents or delinquents in these proceedings, and for telephonic
20 appearances by nonminor dependents in any proceeding in which
21 the nonminor dependent is a party, and he or she declines to appear
22 and elects a telephonic appearance.

23 (4) Prior to the hearing on a petition to resume dependency
24 jurisdiction or to assume or resume transition jurisdiction, the court
25 shall order the county child welfare or probation department to
26 prepare a report for the court addressing whether the nonminor
27 intends to satisfy at least one of the criteria set forth in subdivision
28 (b) of Section 11403. When the recommendation is for the
29 nonminor dependent to be placed in a setting where minor
30 dependents also reside, the results of a background check of the
31 petitioning nonminor conducted pursuant to Section 16504.5, may
32 be used by the placing agency to determine appropriate placement
33 options for the nonminor. The existence of a criminal conviction
34 is not a bar to eligibility for reentry or resumption of dependency
35 jurisdiction or the assumption or resumption of transition
36 jurisdiction over a nonminor.

37 (5) (A) The court shall resume dependency jurisdiction over a
38 former dependent or assume or resume transition jurisdiction over
39 a former delinquent ward pursuant to Section 450, and order that
40 the nonminor's placement and care be under the responsibility of

1 the county child welfare services department, the probation
2 department, tribe, consortium of tribes, or tribal organization, if
3 the court finds all of the following:

4 (i) The nonminor was previously under juvenile court
5 jurisdiction subject to an order for foster care placement at any
6 time after he or she attained 12 years of age.

7 (ii) The nonminor has not attained the age ~~limits~~ *limit* described
8 in paragraph (1).

9 (iii) Reentry and remaining in foster care are in the nonminor's
10 best interests.

11 (iv) The nonminor intends to satisfy, and agrees to satisfy, at
12 least one of the criteria set forth in paragraphs (1) to (5), inclusive,
13 of subdivision (b) of Section 11403, and demonstrates his or her
14 agreement to placement in a supervised setting under the placement
15 and care responsibility of the placing agency and to satisfy the
16 criteria by signing the voluntary reentry agreement as described
17 in subdivision (z) of Section 11400.

18 (B) In no event shall the court grant a continuance that would
19 cause the hearing to resume dependency jurisdiction or to assume
20 or resume transition jurisdiction to be completed more than 120
21 days after the date the petition was filed.

22 (C) The agency made responsible for the nonminor's placement
23 and care pursuant to subparagraph (A) shall prepare a new
24 transitional independent living case plan within 60 calendar days
25 from the date the nonminor signed the voluntary reentry agreement
26 as described in subdivision (z) of Section 11400 and submit it to
27 the court for the review hearing under Section 366.31, to be held
28 within 70 days of the resumption of dependency jurisdiction or
29 assumption or resumption of transition jurisdiction. In no event
30 shall the review hearing under Section 366.3 be held more than
31 170 calendar days from the date the nonminor signed the voluntary
32 reentry agreement.

33 SEC. 3. Section 388.1 of the Welfare and Institutions Code is
34 amended to read:

35 388.1. (a) On and after January 1, 2014, a nonminor who has
36 not attained 21 years of age may petition the court in which he or
37 she was previously found to be a dependent or delinquent child of
38 the juvenile court for a hearing to determine whether to assume
39 dependency jurisdiction over the nonminor, if he or she meets any
40 of the following descriptions:

1 (1) He or she is a nonminor former dependent, as defined in
2 subdivision (aa) of Section 11400, who received aid after attaining
3 ~~12~~ 18 years of age under Kin-GAP pursuant to Article 4.5
4 (commencing with Section 11360) or Article 4.7 (commencing
5 with Section 11385) of Chapter 2 of Part 3 of Division 9, or
6 pursuant to subdivision (e) of Section 11405, and whose former
7 guardian or guardians died after the nonminor attained 18 years
8 of age, but before he or she attains 21 years of age.

9 (2) He or she is a nonminor former dependent, as defined in
10 subdivision (aa) of Section 11400, who received aid after attaining
11 ~~12~~ 18 years of age under Kin-GAP pursuant to Article 4.5
12 (commencing with Section 11360) or Article 4.7 (commencing
13 with Section 11385) of Chapter 2 of Part 3 of Division 9, or
14 pursuant to subdivision (e) of Section 11405, and whose former
15 guardian or guardians no longer provide ongoing support to, *and*
16 *no longer receive aid on behalf of*, the nonminor after the nonminor
17 attained 18 years of age, but before he or she attains 21 years of
18 age.

19 (3) He or she is a nonminor who received adoption assistance
20 payments after attaining ~~12~~ 18 years of age pursuant to Chapter
21 2.1 (commencing with Section 16115) of Part 4 of Division 9 and
22 his or her adoptive parent or parents died after the nonminor
23 attained 18 years of age, but before he or she attains 21 years of
24 age.

25 (4) He or she is a nonminor who received adoption assistance
26 payments after attaining ~~12~~ 18 years of age pursuant to Chapter
27 2.1 (commencing with Section 16115) of Part 4 of Division 9 and
28 his or her adoptive parent or parents no longer provide ongoing
29 support to, *and no longer receive aid on behalf of*, the nonminor
30 after the nonminor attained 18 years of age, but before he or she
31 attains 21 years of age.

32 (5) He or she is a nonminor who was previously under the
33 jurisdiction of the juvenile court subject to an order for foster care
34 placement at any time after he or she attained 12 years of age and
35 who has not attained 21 years of age.

36 (b) (1) The petition to assume jurisdiction may be filed in either
37 of the following:

38 (A) The juvenile court that established the guardianship pursuant
39 to Section 360, Section 366.26, or subdivision (d) of Section 728.

1 (B) The juvenile court that had jurisdiction over the minor or
2 nonminor dependent when his or her adoption was finalized.

3 (2) A nonminor described in subdivision (a) may submit a
4 petition to assume dependency jurisdiction to the juvenile court
5 in the county where he or she resides. A petition submitted pursuant
6 to this paragraph shall, within five days of submission, be
7 forwarded to the court that had jurisdiction over the child at the
8 time of the guardianship or adoption. The clerk of the court that
9 had jurisdiction over the child at the time of the guardianship or
10 adoption shall file the petition within one judicial day of receipt.

11 (c) (1) The juvenile court in which the petition was filed shall
12 order a hearing to be held within 15 judicial days of the date the
13 petition was filed if there is a prima facie showing that the
14 nonminor satisfies all of the following criteria:

15 (A) He or she was a minor under juvenile court jurisdiction at
16 the time of the establishment of a guardianship pursuant to Section
17 360, Section 366.26, or subdivision (d) of Section 728, or he or
18 she was a minor or nonminor dependent when his or her adoption
19 was finalized.

20 (B) (i) His or her guardian or guardians, or adoptive parent or
21 parents, as applicable, died after the nonminor attained 18 years
22 of age, but before he or she attained 21 years of age.

23 (ii) His or her guardian or guardians, or adoptive parent or
24 parents, as applicable, no longer provide ongoing support to, *and*
25 *no longer receive aid on behalf of*, the nonminor after the nonminor
26 attained 18 years of age, but before he or she attained 21 years of
27 age, and it may be in the nonminor's best interest for the court to
28 assume dependency jurisdiction.

29 (C) He or she intends to satisfy at least one of the conditions
30 set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
31 Section 11403.

32 (D) He or she is requesting assistance in maintaining or securing
33 appropriate supervised placement, or needs immediate placement
34 and agrees to supervised placement pursuant to the voluntary
35 reentry agreement described in subdivision (z) of Section 11400.

36 (2) Upon ordering a hearing, the court shall give prior notice,
37 or cause prior notice to be given, to the nonminor, the appropriate
38 child welfare agency or probation department, and any other person
39 requested by the nonminor in the petition.

1 (3) Pursuant to applicable rules of court, the juvenile court shall
2 allow for telephonic appearances by the nonminor in these
3 proceedings and in any proceeding in which the nonminor
4 dependent is a party.

5 (4) Prior to the hearing, the court shall order the county child
6 welfare or probation department to prepare a report for the court
7 that addresses both of the following:

8 (A) The nonminor's plans to satisfy at least one of the criteria
9 set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of
10 Section 11403.

11 (B) The appropriate placement setting for the nonminor. When
12 the recommendation is for the nonminor to be placed in a setting
13 where minor dependents also reside, the results of a background
14 check of the petitioning nonminor conducted pursuant to Section
15 16504.5 may be used by the placing agency to determine
16 appropriate placement options for him or her.

17 (5) The court shall assume dependency jurisdiction over a former
18 dependent or ward, and order his or her placement and care be
19 under the responsibility of the county child welfare services
20 department, the probation department, tribe, consortium of tribes,
21 or tribal organization, if the court finds all of the following:

22 (A) The nonminor was a minor under juvenile court jurisdiction
23 at the time of the establishment of a guardianship pursuant to
24 Section 360, Section 366.26, or subdivision (d) of Section 728, or
25 he or she was a dependent at the time his or her adoption was
26 finalized.

27 (B) The nonminor's guardian or guardians, or adoptive parent
28 or parents, as applicable, have died, or no longer provide ongoing
29 support to, *and no longer receive aid on behalf of*, the nonminor,
30 and it is in the nonminor's best interests for the court to assume
31 dependency jurisdiction.

32 (C) The nonminor has not attained 21 years of age.

33 (D) Reentry and remaining in foster care are in the nonminor's
34 best interests.

35 (E) The nonminor intends to satisfy, and agrees to satisfy, at
36 least one of the criteria set forth in paragraphs (1) to (5), inclusive,
37 of subdivision (b) of Section 11403, and demonstrates his or her
38 agreement to placement in a supervised setting under the placement
39 and care responsibility of the placing agency by signing the

1 voluntary reentry agreement described in subdivision (z) of Section
2 11400.

3 (6) The existence of a criminal conviction is not a bar to
4 eligibility for reentry to foster care or assumption of dependency
5 jurisdiction over a nonminor.

6 (7) The court shall not grant a continuance that would cause the
7 hearing to be completed more than 120 days after the date the
8 petition is filed.

9 (d) The agency made responsible for the nonminor's placement
10 and care pursuant to paragraph (5) of subdivision (c) shall prepare
11 a new transitional independent living case plan within 60 calendar
12 days of the date the nonminor signs the voluntary reentry agreement
13 and shall submit the plan to the court for the review hearing
14 specified in Section 366.31, to be held within 70 days of the
15 assumption of dependency jurisdiction. The review hearing under
16 Section 366.31 shall not be held more than 170 calendar days from
17 the date the nonminor signs the voluntary reentry agreement.

18 (e) (1) A nonminor described in subdivision (a) may enter into
19 a voluntary reentry agreement as defined in subdivision (z) of
20 Section 11400 in order to establish eligibility for foster care
21 benefits under subdivision (e) of Section 11401 before or after
22 filing a petition to assume dependency jurisdiction. If the nonminor
23 enters into a voluntary reentry agreement prior to filing the petition,
24 the nonminor is entitled to placement and supervision pending the
25 court's assumption of jurisdiction.

26 (2) If the nonminor completes a voluntary reentry agreement
27 with a placing agency, the placing agency shall file the petition to
28 assume dependency jurisdiction on behalf of the nonminor within
29 15 judicial days of the date the agreement is signed, unless the
30 nonminor elects to file the petition at an earlier date.

31 SEC. 4. Section 450 of the Welfare and Institutions Code is
32 amended to read:

33 450. (a) A minor or nonminor who satisfies all of the following
34 criteria is within the transition jurisdiction of the juvenile court:

35 (1) (A) The minor is a ward who is older than 17 years and 5
36 months of age and younger than 18 years of age and in foster care
37 placement, or the nonminor is a ward in foster care placement who
38 was a ward subject to an order for foster care placement at any
39 time after the youth attained 12 years of age and who has not
40 attained 21 years of age.

1 (B) Notwithstanding subparagraph (A), the nonminor is a ward
2 who has been receiving aid pursuant to Article 5 (commencing
3 with Section 11400) of Chapter 2 of Part 3 of Division 9 ~~between~~
4 ~~January 1, 2012, and December 31, 2012, and attains 19 years of~~
5 ~~age prior to January 1, 2013, or who has been receiving that aid~~
6 ~~between January 1, 2013, and December 31, 2013, and attains 20~~
7 ~~years of age prior to January 1, 2014, and who may continue to~~
8 receive aid under the applicable program, provided that the
9 nonminor dependent continues to meet all other applicable
10 eligibility requirements as specified in Section 11403.

11 (2) The ward meets either of the following conditions:

12 (A) The ward was removed from the physical custody of his or
13 her parents or legal guardian, adjudged to be a ward of the juvenile
14 court under Section 725, and ordered into foster care placement
15 as a ward.

16 (B) The ward was removed from the custody of his or her
17 parents or legal guardian as a dependent of the court with an order
18 for foster care placement as a dependent in effect at the time the
19 court adjudged him or her to be a ward of the juvenile court under
20 Section 725.

21 (3) The rehabilitative goals of the minor or nonminor, as set
22 forth in the case plan, have been met, and juvenile court jurisdiction
23 over the minor or nonminor as a ward is no longer required.

24 (4) (A) If the ward is a minor, reunification services have been
25 terminated; the matter has not been set for a hearing for termination
26 of parental rights pursuant to Section 727.3 or for the establishment
27 of guardianship pursuant to Section 728; the return of the child to
28 the physical custody of the parents or legal guardian would create
29 a substantial risk of detriment to the child's safety, protection, or
30 physical or emotional well-being; and the minor has indicated an
31 intent to sign a mutual agreement, as described in subdivision (u)
32 of Section 11400, with the responsible agency for placement in a
33 supervised setting as a nonminor dependent.

34 (B) If the ward is a nonminor, he or she has signed a mutual
35 agreement, as described in subdivision (u) of Section 11400, with
36 the responsible agency for placement in a supervised setting as a
37 nonminor dependent or has signed a voluntary reentry agreement,
38 as described in subdivision (z) of Section 11400 for placement in
39 a supervised setting as a nonminor dependent. A runaway and
40 homeless youth shelter licensed by the State Department of Social

1 Services pursuant to Section 1502.35 of the Health and Safety
2 Code shall not be a placement option pursuant to this section.

3 (b) A minor who is subject to the court's transition jurisdiction
4 shall be referred to as a transition dependent.

5 (c) A youth subject to the court's transition jurisdiction who is
6 18 years of age or older shall be referred to as a nonminor
7 dependent.

8 SEC. 5. Section 607.2 of the Welfare and Institutions Code is
9 amended to read:

10 607.2. (a) The court shall hold a hearing prior to terminating
11 jurisdiction over a ward who satisfies any of the following criteria:

12 (1) Is a minor subject to an order for foster care placement
13 described in Section 11402 as a ward who has not previously been
14 subject to the jurisdiction of the court as a result of a petition filed
15 pursuant to Section 325.

16 (2) Is a nonminor who was subject to an order for foster care
17 placement described in Section 11402 at any time after he or she
18 attained 12 years of age and who has not attained 21 years of age.

19 (3) Is a ward who was subject to an order for foster care
20 placement described in Section 11402 as a dependent of the court
21 at the time the court adjudged the child to be a ward of the court
22 under Section 725.

23 (b) At a hearing during which termination of jurisdiction over
24 a ward described in subdivision (a) is being considered, the court
25 shall take one of the following actions:

26 (1) Modify its jurisdiction from delinquency jurisdiction to
27 transition jurisdiction, if the court finds the ward is a person
28 described in Section 450.

29 (2) (A) For a ward who was not previously subject to the
30 jurisdiction of the court as a result of a petition filed pursuant to
31 Section 325, order the probation department or the ward's attorney
32 to submit an application to the child welfare services department
33 pursuant to Section 329 to declare the minor a dependent of the
34 court and modify the court's jurisdiction from delinquency
35 jurisdiction to dependency jurisdiction, if the court finds all of the
36 following:

37 (i) The ward is a minor.

38 (ii) The ward does not come within the description in Section
39 450, but jurisdiction as a ward may no longer be required.

1 (iii) The ward appears to come within the description of Section
2 300 and cannot be returned home safely.

3 (B) The court shall set a hearing within 20 judicial days of the
4 date of the order described in subparagraph (A) to review the child
5 welfare services department's decision and may either affirm its
6 decision not to file a petition pursuant to Section 300 or order the
7 child welfare services department to file a petition pursuant to
8 Section 300.

9 (3) Vacate the order terminating jurisdiction over the minor as
10 a dependent of the court, resume jurisdiction pursuant to Section
11 300 based on the prior petition filed pursuant to Section 325, and
12 terminate the court's jurisdiction over the minor as a ward, if the
13 minor was subject to an order for foster care placement described
14 in Section 11402 as a dependent of the court at the time the court
15 adjudged the minor to be a ward and assumed jurisdiction over
16 the minor under Section 725.

17 (4) Continue its delinquency jurisdiction over a ward pursuant
18 to Section 303 as a nonminor dependent, as defined in subdivision
19 (v) of Section 11400, who is eligible to remain in foster care
20 pursuant to Section 11403, if the ward is a nonminor and the court
21 did not modify its jurisdiction as described in Section 450, unless
22 the court finds that after reasonable and documented efforts, the
23 ward cannot be located or does not wish to become a nonminor
24 dependent. In making this finding and prior to entering an order
25 terminating its delinquency jurisdiction, the court shall ensure that
26 the ward has had an opportunity to confer with his or her counsel
27 and has been informed of his or her options, including the right to
28 reenter foster care placement by completing a voluntary reentry
29 agreement as described in subdivision (z) of Section 11400 and to
30 file a petition pursuant to subdivision (e) of Section 388 for the
31 court to assume or resume transition jurisdiction over him or her
32 pursuant to Section 450. The fact that a ward declines to be a
33 nonminor dependent does not restrict the authority of the court to
34 maintain delinquency jurisdiction pursuant to Section 607.

35 (5) Continue its delinquency jurisdiction.

36 (6) Terminate its delinquency jurisdiction if the ward does not
37 come within the provisions of paragraphs (1) to (4), inclusive.

38 (c) If the court modifies jurisdiction, its order shall comply with
39 the requirements of subdivision (f) of Section 241.1.

1 (d) This section does not change the requirements of Section
2 727.2 or 727.3 with respect to reunification of minors with their
3 families or the establishment of an alternative permanent plan for
4 minors for whom reunification is not pursued.

5 SEC. 6. Section 11400 of the Welfare and Institutions Code is
6 amended to read:

7 11400. For purposes of this article, the following definitions
8 shall apply:

9 (a) "Aid to Families with Dependent Children-Foster Care
10 (AFDC-FC)" means the aid provided on behalf of needy children
11 in foster care under the terms of this division.

12 (b) "Case plan" means a written document that, at a minimum,
13 specifies the type of home in which the child shall be placed, the
14 safety of that home, and the appropriateness of that home to meet
15 the child's needs. It shall also include the agency's plan for
16 ensuring that the child receive proper care and protection in a safe
17 environment, and shall set forth the appropriate services to be
18 provided to the child, the child's family, and the foster parents, in
19 order to meet the child's needs while in foster care, and to reunify
20 the child with the child's family. In addition, the plan shall specify
21 the services that will be provided or steps that will be taken to
22 facilitate an alternate permanent plan if reunification is not possible.

23 (c) "Certified family home" means a family residence certified
24 by a licensed foster family agency and issued a certificate of
25 approval by that agency as meeting licensing standards, and used
26 only by that foster family agency for placements.

27 (d) "Family home" means the family residence of a licensee in
28 which 24-hour care and supervision are provided for children.

29 (e) "Small family home" means any residential facility, in the
30 licensee's family residence, which provides 24-hour care for six
31 or fewer foster children who have mental disorders or
32 developmental or physical disabilities and who require special care
33 and supervision as a result of their disabilities.

34 (f) "Foster care" means the 24-hour out-of-home care provided
35 to children whose own families are unable or unwilling to care for
36 them, and who are in need of temporary or long-term substitute
37 parenting.

38 (g) "Foster family agency" means any individual or organization
39 engaged in the recruiting, certifying, and training of, and providing
40 professional support to, foster parents, or in finding homes or other

1 places for placement of children for temporary or permanent care
2 who require that level of care as an alternative to a group home.
3 Private foster family agencies shall be organized and operated on
4 a nonprofit basis.

5 (h) "Group home" means a nondetention privately operated
6 residential home, organized and operated on a nonprofit basis only,
7 of any capacity, or a nondetention licensed residential care home
8 operated by the County of San Mateo with a capacity of up to 25
9 beds, that accepts children in need of care and supervision in a
10 group home, as defined by paragraph (13) of subdivision (a) of
11 Section 1502 of the Health and Safety Code.

12 (i) "Periodic review" means review of a child's status by the
13 juvenile court or by an administrative review panel, that shall
14 include a consideration of the safety of the child, a determination
15 of the continuing need for placement in foster care, evaluation of
16 the goals for the placement and the progress toward meeting these
17 goals, and development of a target date for the child's return home
18 or establishment of alternative permanent placement.

19 (j) "Permanency planning hearing" means a hearing conducted
20 by the juvenile court in which the child's future status, including
21 whether the child shall be returned home or another permanent
22 plan shall be developed, is determined.

23 (k) "Placement and care" refers to the responsibility for the
24 welfare of a child vested in an agency or organization by virtue of
25 the agency or organization having (1) been delegated care, custody,
26 and control of a child by the juvenile court, (2) taken responsibility,
27 pursuant to a relinquishment or termination of parental rights on
28 a child, (3) taken the responsibility of supervising a child detained
29 by the juvenile court pursuant to Section 319 or 636, or (4) signed
30 a voluntary placement agreement for the child's placement; or to
31 the responsibility designated to an individual by virtue of his or
32 her being appointed the child's legal guardian.

33 (l) "Preplacement preventive services" means services that are
34 designed to help children remain with their families by preventing
35 or eliminating the need for removal.

36 (m) "Relative" means an adult who is related to the child by
37 blood, adoption, or affinity within the fifth degree of kinship,
38 including stepparents, stepsiblings, and all relatives whose status
39 is preceded by the words "great," "great-great," or "grand" or the

1 spouse of any of these persons even if the marriage was terminated
2 by death or dissolution.

3 (n) “Nonrelative extended family member” means an adult
4 caregiver who has an established familial or mentoring relationship
5 with the child, as described in Section 362.7.

6 (o) “Voluntary placement” means an out-of-home placement
7 of a child by (1) the county welfare department, probation
8 department, or Indian tribe that has entered into an agreement
9 pursuant to Section 10553.1, after the parents or guardians have
10 requested the assistance of the county welfare department and have
11 signed a voluntary placement agreement; or (2) the county welfare
12 department licensed public or private adoption agency, or the
13 department acting as an adoption agency, after the parents have
14 requested the assistance of either the county welfare department,
15 the licensed public or private adoption agency, or the department
16 acting as an adoption agency for the purpose of adoption planning,
17 and have signed a voluntary placement agreement.

18 (p) “Voluntary placement agreement” means a written agreement
19 between either the county welfare department, probation
20 department, or Indian tribe that has entered into an agreement
21 pursuant to Section 10553.1, licensed public or private adoption
22 agency, or the department acting as an adoption agency, and the
23 parents or guardians of a child that specifies, at a minimum, the
24 following:

25 (1) The legal status of the child.

26 (2) The rights and obligations of the parents or guardians, the
27 child, and the agency in which the child is placed.

28 (q) “Original placement date” means the most recent date on
29 which the court detained a child and ordered an agency to be
30 responsible for supervising the child or the date on which an agency
31 assumed responsibility for a child due to termination of parental
32 rights, relinquishment, or voluntary placement.

33 (r) (1) “Transitional housing placement provider” means an
34 organization licensed by the State Department of Social Services
35 pursuant to Section 1559.110 of the Health and Safety Code, to
36 provide transitional housing to foster children at least 16 years of
37 age and not more than 18 years of age, and nonminor dependents,
38 as defined in subdivision (v). A transitional housing placement
39 provider shall be privately operated and organized on a nonprofit
40 basis.

1 (2) Prior to licensure, a provider shall obtain certification from
2 the applicable county, in accordance with Section 16522.1.

3 (s) “Transitional Housing Program-Plus” means a provider
4 certified by the applicable county, in accordance with subdivision
5 (c) of Section 16522, to provide transitional housing services to
6 former foster youth who have exited the foster care system on or
7 after their 18th birthday.

8 (t) “Whole family foster home” means a new or existing family
9 home, approved relative caregiver or nonrelative extended family
10 member’s home, the home of a nonrelated legal guardian whose
11 guardianship was established pursuant to Section 360 or 366.26,
12 certified family home, or a host family home placement of a
13 transitional housing placement provider, that provides foster care
14 for a minor or nonminor dependent parent and his or her child,
15 and is specifically recruited and trained to assist the minor or
16 nonminor dependent parent in developing the skills necessary to
17 provide a safe, stable, and permanent home for his or her child.
18 The child of the minor or nonminor dependent parent need not be
19 the subject of a petition filed pursuant to Section 300 to qualify
20 for placement in a whole family foster home.

21 (u) “Mutual agreement” means any of the following:

22 (1) A written voluntary agreement of consent for continued
23 placement and care in a supervised setting between a minor or, on
24 and after January 1, 2012, a nonminor dependent, and the county
25 welfare services or probation department or tribal agency
26 responsible for the foster care placement, that documents the
27 nonminor’s continued willingness to remain in supervised
28 out-of-home placement under the placement and care of the
29 responsible county, tribe, consortium of tribes, or tribal
30 organization that has entered into an agreement with the state
31 pursuant to Section 10553.1, remain under the jurisdiction of the
32 juvenile court as a nonminor dependent, and report any change of
33 circumstances relevant to continued eligibility for foster care
34 payments, and that documents the nonminor’s and social worker’s
35 or probation officer’s agreement to work together to facilitate
36 implementation of the mutually developed supervised placement
37 agreement and transitional independent living case plan.

38 (2) An agreement, as described in paragraph (1), between a
39 nonminor former dependent or ward in receipt of Kin-GAP
40 payments under Article 4.5 (commencing with Section 11360) or

1 Article 4.7 (commencing with Section 11385), and the agency
2 responsible for the Kin-GAP benefits, provided that the nonminor
3 former dependent or ward satisfies the conditions described in
4 Section 11403.01, or one or more of the conditions described in
5 paragraphs (1) to (5), inclusive, of subdivision (b) of Section
6 11403. For purposes of this paragraph and paragraph (3),
7 “nonminor former dependent or ward” has the same meaning as
8 described in subdivision (aa).

9 (3) An agreement, as described in paragraph (1), between a
10 nonminor former dependent or ward in receipt of AFDC-FC
11 payments under subdivision (e) or (f) of Section 11405 and the
12 agency responsible for the AFDC-FC benefits, provided that the
13 nonminor former dependent or ward described in subdivision (e)
14 of Section 11405 satisfies one or more of the conditions described
15 in paragraphs (1) to (5), inclusive, of subdivision (b) of Section
16 11403, and the nonminor described in subdivision (f) of Section
17 11405 satisfies the secondary school or equivalent training or
18 certificate program conditions described in that subdivision.

19 (v) “Nonminor dependent” means a foster child, as described
20 in Section 675(8)(B) of Title 42 of the United States Code under
21 the federal Social Security Act who is a current dependent child
22 or ward of the juvenile court, or who is a nonminor under the
23 transition jurisdiction of the juvenile court, as described in Section
24 450, and who satisfies all of the following criteria:

25 (1) He or she was subject to an order for foster care placement
26 described in Section 11402 at any time after he or she attained 12
27 years of age and who has not attained 21 years of age.

28 (2) He or she is in foster care under the placement and care
29 responsibility of the county welfare department, county probation
30 department, Indian tribe, consortium of tribes, or tribal organization
31 that entered into an agreement pursuant to Section 10553.1.

32 (3) He or she has a transitional independent living case plan
33 pursuant to Section 475(8) of the federal Social Security Act (42
34 U.S.C. Sec. 675(8)), as contained in the federal Fostering
35 Connections to Success and Increasing Adoptions Act of 2008
36 (Public Law 110-351), as described in Section 11403.

37 (w) “Supervised independent living placement” means, on and
38 after January 1, 2012, an independent supervised setting, as
39 specified in a nonminor dependent’s transitional independent living
40 case plan, in which the youth is living independently, pursuant to

1 Section 472(c)(2) of the Social Security Act (42 U.S.C. Sec.
2 672(c)(2)).

3 (x) “Supervised independent living setting,” pursuant to Section
4 472(c)(2) of the federal Social Security Act (42 U.S.C. Sec.
5 672(c)(2)), includes both a supervised independent living
6 placement, as defined in subdivision (w), and a residential housing
7 unit certified by the transitional housing placement provider
8 operating a Transitional Housing Placement-Plus Foster Care
9 program, as described in paragraph (2) of subdivision (a) of Section
10 16522.1.

11 (y) “Transitional independent living case plan” means, on or
12 after January 1, 2012, a child’s case plan submitted for the last
13 review hearing held before he or she reaches 18 years of age or
14 the nonminor dependent’s case plan, updated every six months,
15 that describes the goals and objectives of how the nonminor will
16 make progress in the transition to living independently and assume
17 incremental responsibility for adult decisionmaking, the
18 collaborative efforts between the nonminor and the social worker,
19 probation officer, or Indian tribal placing entity and the supportive
20 services as described in the transitional independent living plan
21 (TILP) to ensure active and meaningful participation in one or
22 more of the eligibility criteria described in paragraphs (1) to (5),
23 inclusive, of subdivision (b) of Section 11403, the nonminor’s
24 appropriate supervised placement setting, and the nonminor’s
25 permanent plan for transition to living independently, which
26 includes maintaining or obtaining permanent connections to caring
27 and committed adults, as set forth in paragraph (16) of subdivision
28 (f) of Section 16501.1.

29 (z) “Voluntary reentry agreement” means a written voluntary
30 agreement between a former dependent child or ward or a former
31 nonminor dependent, who has had juvenile court jurisdiction
32 terminated pursuant to Section 391, 452, or 607.2, and the county
33 welfare or probation department or tribal placing entity that
34 documents the nonminor’s desire and willingness to reenter foster
35 care, to be placed in a supervised setting under the placement and
36 care responsibility of the placing agency, the nonminor’s desire,
37 willingness, and ability to immediately participate in one or more
38 of the conditions of paragraphs (1) to (5), inclusive, of subdivision
39 (b) of Section 11403, the nonminor’s agreement to work
40 collaboratively with the placing agency to develop his or her

1 transitional independent living case plan within 60 days of reentry,
2 the nonminor's agreement to report any changes of circumstances
3 relevant to continued eligibility for foster care payments, and (1)
4 the nonminor's agreement to participate in the filing of a petition
5 for juvenile court jurisdiction as a nonminor dependent pursuant
6 to subdivision (e) of Section 388 within 15 judicial days of the
7 signing of the agreement and the placing agency's efforts and
8 supportive services to assist the nonminor in the reentry process,
9 or (2) if the nonminor meets the definition of a nonminor former
10 dependent or ward, as described in subdivision (aa), the nonminor's
11 agreement to return to the care and support of his or her former
12 juvenile court-appointed guardian and meet the eligibility criteria
13 for AFDC-FC pursuant to subdivision (e) of Section 11405.

14 (aa) "Nonminor former dependent or ward" means, on and after
15 January 1, 2012, either of the following:

16 (1) A nonminor who was subject to an order for foster care
17 placement described in Section 11402 at any time after he or she
18 attained 12 years of age and who has not attained 21 years of age,
19 and for whom dependency, delinquency, or transition jurisdiction
20 has been terminated, and who is still under the general jurisdiction
21 of the court.

22 (2) A nonminor who is over 18 years of age and, while a minor,
23 was a dependent child or ward of the juvenile court when the
24 guardianship was established pursuant to Section 360 or 366.26,
25 or subdivision (d), of Section 728 and the juvenile court
26 dependency or wardship was dismissed following the establishment
27 of the guardianship.

28 (ab) "Runaway and homeless youth shelter" means a type of
29 group home, as defined in paragraph (14) of subdivision (a) of
30 Section 1502 of the Health and Safety Code, that is not an eligible
31 placement option under Sections 319, 361.2, 450, and 727, and
32 that is not eligible for AFDC-FC funding pursuant to subdivision
33 (c) of Section 11402 or Section 11462.

34 (ac) "Transition dependent" is a minor between 17 years and
35 five months and 18 years of age who is subject to the court's
36 transition jurisdiction under Section 450.

37 SEC. 7. Section 11401 of the Welfare and Institutions Code is
38 amended to read:

39 11401. Aid in the form of AFDC-FC shall be provided under
40 this chapter on behalf of any child under 18 years of age and to

1 any nonminor dependent who meets the conditions of any of the
2 following subdivisions:

3 (a) The child has been relinquished, for purposes of adoption,
4 to a licensed adoption agency, or the department, or the parental
5 rights of either or both of his or her parents have been terminated
6 after an action under the Family Code has been brought by a
7 licensed adoption agency or the department, provided that the
8 licensed adoption agency or the department, if responsible for
9 placement and care, provides to those children all services as
10 required by the department to children in foster care.

11 (b) The child has been removed from the physical custody of
12 his or her parent, relative, or guardian as a result of a voluntary
13 placement agreement or a judicial determination that continuance
14 in the home would be contrary to the child's welfare and that, if
15 the child was placed in foster care, reasonable efforts were made,
16 consistent with Chapter 5 (commencing with Section 16500) of
17 Part 4, to prevent or eliminate the need for removal of the child
18 from his or her home and to make it possible for the child to return
19 to his or her home, and any of the following applies:

20 (1) The child has been adjudged a dependent child of the court
21 on the grounds that he or she is a person described by Section 300.

22 (2) The child has been adjudged a ward of the court on the
23 grounds that he or she is a person described by Sections 601 and
24 602 or the nonminor is under the transition jurisdiction of the
25 juvenile court pursuant to Section 450.

26 (3) The child has been detained under a court order, pursuant
27 to Section 319 or 636, that remains in effect.

28 (4) The child's or nonminor's dependency jurisdiction, or
29 transition jurisdiction pursuant to Section 450, has resumed
30 pursuant to Section 387, or subdivision (a) or (e) of Section 388.

31 (c) The child has been voluntarily placed by his or her parent
32 or guardian pursuant to Section 11401.1.

33 (d) The child is living in the home of a nonrelated legal guardian.

34 (e) The child is a nonminor dependent who is placed pursuant
35 to a mutual agreement as set forth in subdivision (u) of Section
36 11400, under the placement and care responsibility of the county
37 child welfare services department, an Indian tribe that entered into
38 an agreement pursuant to Section 10553.1, or the county probation
39 department, or the child is a nonminor dependent reentering foster

1 care placement pursuant to a voluntary agreement, as set forth in
2 subdivision (z) of Section 11400.

3 (f) The child has been placed in foster care under the federal
4 Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall
5 not be construed as limiting payments to Indian children, as defined
6 in the federal Indian Child Welfare Act, placed in accordance with
7 that act.

8 (g) To be eligible for federal financial participation, the
9 conditions described in paragraph (1), (2), (3), or (4) shall be
10 satisfied:

11 (1) (A) The child meets the conditions of subdivision (b).

12 (B) The child has been deprived of parental support or care for
13 any of the reasons set forth in Section 11250.

14 (C) The child has been removed from the home of a relative as
15 defined in Section 233.90(c)(1) of Title 45 of the Code of Federal
16 Regulations, as amended.

17 (D) The requirements of Sections 671 and 672 of Title 42 of
18 the United States Code, as amended, have been met.

19 (2) (A) The child meets the requirements of subdivision (h).

20 (B) The requirements of Sections 671 and 672 of Title 42 of
21 the United States Code, as amended, have been met.

22 (C) This paragraph shall be implemented only if federal financial
23 participation is available for the children described in this
24 paragraph.

25 (3) (A) The child has been removed from the custody of his or
26 her parent, relative, or guardian as a result of a voluntary placement
27 agreement or a judicial determination that continuance in the home
28 would be contrary to the child's welfare and that, if the child was
29 placed in foster care, reasonable efforts were made, consistent with
30 Chapter 5 (commencing with Section 16500) of Part 4, to prevent
31 or eliminate the need for removal of the child from his or her home
32 and to make it possible for the child to return to his or her home,
33 or the child is a nonminor dependent who satisfies the removal
34 criteria in Section 472(a)(2)(A)(i) of the federal Social Security
35 Act (42 U.S.C. Sec. 672 (a)(2)(A)(i)) and agrees to the placement
36 and care responsibility of the placing agency by signing the
37 voluntary reentry agreement, as set forth in subdivision (z) of
38 Section 11400, and any of the following applies:

39 (i) The child has been adjudged a dependent child of the court
40 on the grounds that he or she is a person described by Section 300.

1 (ii) The child has been adjudged a ward of the court on the
2 grounds that he or she is a person described by Sections 601 and
3 602 or the nonminor is under the transition jurisdiction of the
4 juvenile court, pursuant to Section 450.

5 (iii) The child has been detained under a court order, pursuant
6 to Section 319 or 636, that remains in effect.

7 (iv) The child's or nonminor's dependency jurisdiction, or
8 transition jurisdiction pursuant to Section 450, has resumed
9 pursuant to Section 387, or subdivision (a) or (e) of Section 388.

10 (B) The child has been placed in an eligible foster care
11 placement, as set forth in Section 11402.

12 (C) The requirements of Sections 671 and 672 of Title 42 of
13 the United States Code have been satisfied.

14 (D) This paragraph shall be implemented only if federal financial
15 participation is available for the children described in this
16 paragraph.

17 (4) With respect to a nonminor dependent, in addition to meeting
18 the conditions specified in paragraph (1), the requirements of
19 Section 675(8)(B) of Title 42 of the United States Code have been
20 satisfied. With respect to a former nonminor dependent who
21 reenters foster care placement by signing the voluntary reentry
22 agreement, as set forth in subdivision (z) of Section 11400, the
23 requirements for AFDC-FC eligibility of Section 672(a)(3)(A) of
24 Title 42 of the United States Code are satisfied based on the
25 nonminor's status as a child-only case, without regard to the
26 parents, legal guardians, or others in the assistance unit in the home
27 from which the nonminor was originally removed.

28 (h) The child meets all of the following conditions:

29 (1) The child has been adjudged to be a dependent child or ward
30 of the court on the grounds that he or she is a person described in
31 Section 300, 601, or 602.

32 (2) The child's parent also has been adjudged to be a dependent
33 child or nonminor dependent of the court on the grounds that he
34 or she is a person described by Section 300, 450, 601, or 602 and
35 is receiving benefits under this chapter.

36 (3) The child is placed in the same licensed or approved foster
37 care facility in which his or her parent is placed and the child's
38 parent is receiving reunification services with respect to that child.

39 SEC. 8. Section 11403 of the Welfare and Institutions Code is
40 amended to read:

1 11403. (a) It is the intent of the Legislature to exercise the
2 option afforded states under Section 475(8) (42 U.S.C. Sec.
3 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the
4 federal Social Security Act, as contained in the federal Fostering
5 Connections to Success and Increasing Adoptions Act of 2008
6 (Public Law 110-351), to receive federal financial participation
7 for nonminor dependents of the juvenile court who satisfy the
8 conditions of subdivision (b), consistent with their transitional
9 independent living case plan. These nonminor dependents shall
10 be eligible to receive support up to 21 years of age, consistent with
11 their transitional independent living case plan. It is the intent of
12 the Legislature both at the time of initial determination of the
13 nonminor dependent's eligibility and throughout the time the
14 nonminor dependent is eligible for aid pursuant to this section,
15 that the social worker or probation officer or Indian tribal placing
16 entity and the nonminor dependent shall work together to ensure
17 the nonminor dependent's ongoing eligibility. All case planning
18 shall be a collaborative effort between the nonminor dependent
19 and the social worker, probation officer, or Indian tribe, with the
20 nonminor dependent assuming increasing levels of responsibility
21 and independence.

22 (b) A nonminor dependent receiving aid pursuant to this chapter,
23 who satisfies the age criteria set forth in subdivision (a), shall meet
24 the legal authority for placement and care by being under a foster
25 care placement order by the juvenile court, or the voluntary reentry
26 agreement as set forth in subdivision (z) of Section 11400, and is
27 otherwise eligible for AFDC-FC payments pursuant to Section
28 11401. A nonminor who satisfies the age criteria set forth in
29 subdivision (a), and who is otherwise eligible, shall continue to
30 receive CalWORKs payments pursuant to Section 11253 or, as a
31 nonminor former dependent or ward, aid pursuant to Kin-GAP
32 under Article 4.5 (commencing with Section 11360) or Article 4.7
33 (commencing with Section 11385) or adoption assistance payments
34 as specified in Chapter 2.1 (commencing with Section 16115) of
35 Part 4. ~~Effective January 1, 2012, a nonminor former dependent~~
36 ~~child or ward of the juvenile court who is otherwise eligible to~~
37 ~~receive receiving~~ AFDC-FC benefits pursuant to Section 11405
38 and who satisfies the criteria set forth in subdivision (a) shall
39 ~~continue to~~ be eligible to *continue* to receive aid as long as the
40 nonminor is otherwise eligible for AFDC-FC benefits under this

1 subdivision. This subdivision shall apply when one or more of the
2 following conditions exist:

3 (1) The nonminor is completing secondary education or a
4 program leading to an equivalent credential.

5 (2) The nonminor is enrolled in an institution which provides
6 postsecondary or vocational education.

7 (3) The nonminor is participating in a program or activity
8 designed to promote, or remove barriers to employment.

9 (4) The nonminor is employed for at least 80 hours per month.

10 (5) The nonminor is incapable of doing any of the activities
11 described in subparagraphs (1) to (4), inclusive, due to a medical
12 condition, and that incapability is supported by regularly updated
13 information in the case plan of the nonminor. The requirement to
14 update the case plan under this section shall not apply to nonminor
15 former dependents or wards in receipt of Kin-GAP program or
16 Adoption Assistance Program payments.

17 (c) The county child welfare or probation department, Indian
18 tribe, consortium of tribes, or tribal organization that has entered
19 into an agreement pursuant to Section 10553.1, shall work together
20 with a nonminor dependent who is in foster care on his or her 18th
21 birthday and thereafter or a nonminor former dependent receiving
22 aid pursuant to Section 11405, to satisfy one or more of the
23 conditions described in paragraphs (1) to (5), inclusive, of
24 subdivision (b) and shall certify the nonminor's applicable
25 condition or conditions in the nonminor's six-month transitional
26 independent living case plan update, and provide the certification
27 to the eligibility worker and to the court at each six-month case
28 plan review hearing for the nonminor dependent. Relative
29 guardians who receive Kin-GAP payments and adoptive parents
30 who receive adoption assistance payments shall be responsible for
31 reporting to the county welfare agency that the nonminor does not
32 satisfy at least one of the conditions described in subdivision (b).
33 The social worker, probation officer, or tribal entity shall verify
34 and obtain assurances that the nonminor dependent continues to
35 satisfy at least one of the conditions in paragraphs (1) to (5),
36 inclusive, of subdivision (b) at each six-month transitional
37 independent living case plan update. The six-month case plan
38 update shall certify the nonminor's eligibility pursuant to
39 subdivision (b) for the next six-month period. During the six-month
40 certification period, the payee and nonminor shall report any

1 change in placement or other relevant changes in circumstances
2 that may affect payment. The nonminor dependent, or nonminor
3 former dependent receiving aid pursuant to subdivision (e) of
4 Section 11405, shall be informed of all due process requirements,
5 in accordance with state and federal law, prior to an involuntary
6 termination of aid, and shall simultaneously be provided with a
7 written explanation of how to exercise his or her due process rights
8 and obtain referrals to legal assistance. Any notices of action
9 regarding eligibility shall be sent to the nonminor dependent or
10 former dependent, his or her counsel, as applicable, and the placing
11 worker, in addition to any other payee. Payments of aid pursuant
12 to Kin-GAP under Article 4.5 (commencing with Section 11360)
13 or Article 4.7 (commencing with Section 11385), adoption
14 assistance payments as specified in Chapter 2.1 (commencing with
15 Section 16115) of Part 4, or aid pursuant to subdivision (e) of
16 Section 11405 that are made on behalf of a nonminor former
17 dependent shall terminate subject to the terms of the agreements.
18 Subject to federal approval of amendments to the state plan, aid
19 payments may be suspended and resumed based on changes of
20 circumstances that affect eligibility. Nonminor former dependents,
21 as identified in paragraph (2) of subdivision (aa) of Section 11400,
22 are not eligible for reentry under subdivision (e) of Section 388 as
23 nonminor dependents under the jurisdiction of the juvenile court,
24 unless (1) the nonminor former dependent was receiving aid
25 pursuant to Kin-GAP under Article 4.5 (commencing with Section
26 11360) or Article 4.7 (commencing with Section 11385), or the
27 nonminor former dependent was receiving aid pursuant to
28 subdivision (e) of Section 11405, or the nonminor was receiving
29 adoption assistance payments as specified in Chapter 2.1
30 (commencing with Section 16115) of Part 3 and (2) the nonminor's
31 former guardian or adoptive parent dies, or no longer provides
32 ongoing support to, *and no longer receive aid on behalf of*, the
33 nonminor after the nonminor turns 18 years of age but before the
34 nonminor turns 21 years of age. Nonminor former dependents
35 requesting the resumption of AFDC-FC payments pursuant to
36 subdivision (e) of Section 11405 shall complete the applicable
37 portions of the voluntary reentry agreement, as described in
38 subdivision (z) of Section 11400.

39 (d) A nonminor dependent may receive all of the payment
40 directly provided that the nonminor is living independently in a

1 supervised placement, as described in subdivision (w) of Section
2 11400, and that both the youth and the agency responsible for the
3 foster care placement have signed a mutual agreement, as defined
4 in subdivision (u) of Section 11400, if the youth is capable of
5 making an informed agreement, that documents the continued need
6 for supervised out-of-home placement, and the nonminor's and
7 social worker's or probation officer's agreement to work together
8 to facilitate implementation of the mutually developed supervised
9 placement agreement and transitional independent living case plan.

10 (e) Eligibility for aid under this section shall not terminate until
11 the nonminor dependent attains the age criteria, as set forth in
12 subdivision (a), but aid may be suspended when the nonminor
13 dependent no longer resides in an eligible facility, as described in
14 Section 11402, or is otherwise not eligible for AFDC-FC benefits
15 under Section 11401, or terminated at the request of the nonminor,
16 or after a court terminates dependency jurisdiction pursuant to
17 Section 391, delinquency jurisdiction pursuant to Section 607.2,
18 or transition jurisdiction pursuant to Section 452. AFDC-FC
19 benefits to nonminor dependents, may be resumed at the request
20 of the nonminor by completing a voluntary reentry agreement
21 pursuant to subdivision (z) of Section 11400, before or after the
22 filing of a petition filed pursuant to subdivision (e) of Section 388
23 after a court terminates dependency or transitional jurisdiction
24 pursuant to Section 391, or delinquency jurisdiction pursuant to
25 Section 607.2. The county welfare or probation department or
26 Indian tribal entity that has entered into an agreement pursuant to
27 Section 10553.1 shall complete the voluntary reentry agreement
28 with the nonminor who agrees to satisfy the criteria of the
29 agreement, as described in subdivision (z) of Section 11400. The
30 county welfare department or tribal entity shall establish a new
31 child-only Title IV-E eligibility determination based on the
32 nonminor's completion of the voluntary reentry agreement pursuant
33 to Section 11401. The beginning date of aid for either federal or
34 state AFDC-FC for a reentering nonminor who is placed in foster
35 care is the date the voluntary reentry agreement is signed or the
36 nonminor is placed, whichever is later. The county welfare
37 department, county probation department, or tribal entity shall
38 provide a nonminor dependent who wishes to continue receiving
39 aid with the assistance necessary to meet and maintain eligibility.

1 (f) (1) The county having jurisdiction of the nonminor
2 dependent shall remain the county of payment under this section
3 regardless of the youth's physical residence. Nonminor former
4 dependents receiving aid pursuant to subdivision (e) of Section
5 11405 shall be paid by their county of residence. Counties may
6 develop courtesy supervision agreements to provide case
7 management and independent living services by the county of
8 residence pursuant to the nonminor dependent's transitional
9 independent living case plan. Placements made out of state are
10 subject to the applicable requirements of the Interstate Compact
11 on Placement of Children, pursuant to Part 5 (commencing with
12 Section 7900) of Division 12 of the Family Code.

13 (2) The county welfare department, county probation
14 department, or tribal entity shall notify all foster youth who attain
15 16 years of age and are under the jurisdiction of that county or
16 tribe, including those receiving Kin-GAP, and AAP, of the
17 existence of the aid prescribed by this section.

18 (3) The department shall seek any waiver to amend its Title
19 IV-E State Plan with the Secretary of the United States Department
20 of Health and Human Services necessary to implement this section.

21 (g) (1) Subject to paragraph (3), a county shall pay the
22 nonfederal share of the cost of extending aid pursuant to this
23 section to eligible nonminor dependents who have reached 18
24 years of age and who are under the jurisdiction of the county,
25 including AFDC-FC payments pursuant to Section 11401, aid
26 pursuant to Kin-GAP under Article 4.7 (commencing with Section
27 11385), adoption assistance payments as specified in Chapter 2.1
28 (commencing with Section 16115) of Part 4, and aid pursuant to
29 Section 11405 for nonminor dependents who are residing in the
30 county as provided in paragraph (1) of subdivision (f). A county
31 shall contribute to the CalWORKs payments pursuant to Section
32 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing
33 with Section 11360) at the statutory sharing ratios in effect on
34 January 1, 2012.

35 (2) Subject to paragraph (3), a county shall pay the nonfederal
36 share of the cost of providing permanent placement services
37 pursuant to subdivision (c) of Section 16508 and administering
38 the Aid to Families with Dependent Children Foster Care program
39 pursuant to Section 15204.9. For purposes of budgeting, the
40 department shall use a standard for the permanent placement

1 services that is equal to the midpoint between the budgeting
2 standards for family maintenance services and family reunification
3 services.

4 (3) (A) (i) Notwithstanding any other law, a county's required
5 total contribution pursuant to paragraphs (1) and (2) shall not
6 exceed the amount of savings in Kin-GAP assistance grant
7 expenditures realized by the county from the receipt of federal
8 funds due to the implementation of Article 4.7 (commencing with
9 Section 11385), and the amount of funding specifically included
10 in the Protective Services Subaccount within the Support Services
11 Account within the Local Revenue Fund 2011, plus any associated
12 growth funding from the Support Services Growth Subaccount
13 within the Sales and Use Tax Growth Account to pay the costs of
14 extending aid pursuant to this section.

15 (ii) A county, at its own discretion, may expend additional funds
16 beyond the amounts identified in clause (i). These additional
17 amounts shall not be included in any cost and savings calculations
18 or comparisons performed pursuant to this section.

19 (B) Funding and expenditures for programs and activities under
20 this section shall be in accordance with the requirements provided
21 in Sections 30025 and 30026.5 of the Government Code. In
22 addition, the following are available to the counties for the purpose
23 of funding costs pursuant to this section:

24 (i) The savings in Kin-GAP assistance grant expenditures
25 realized from the receipt of federal funds due to the implementation
26 of Article 4.7 (commencing with Section 11385).

27 (ii) The savings realized from the change in federal funding for
28 adoption assistance resulting from the enactment of Public Law
29 110-351 and consistent with subdivision (d) of Section 16118.

30 (4) (A) The limit on the county's total contribution pursuant to
31 paragraph (3) shall be assessed by the State Department of Social
32 Services, in conjunction with the California State Association of
33 Counties, in 2015-16, to determine if it shall be removed. The
34 assessment of the need for the limit shall be based on a
35 determination on a statewide basis of whether the actual county
36 costs of providing extended care pursuant to this section are fully
37 funded by the amount of savings in Kin-GAP assistance grant
38 expenditures realized by the counties from the receipt of federal
39 funds due to the implementation of Article 4.7 (commencing with
40 Section 11385) and the amount of funding specifically included

1 in the Protective Services Subaccount within the Support Services
2 Account within the Local Revenue Fund 2011 plus any associated
3 growth funding from the Support Services Growth Subaccount
4 within the Sales and Use Tax Growth Account to pay the costs of
5 extending aid pursuant to this section.

6 (B) If the assessment pursuant to subparagraph (A) shows that
7 the statewide total costs of extending aid pursuant to this section
8 are fully funded by the amount of savings in Kin-GAP assistance
9 grant expenditures realized by the counties from the receipt of
10 federal funds due to the implementation of Article 4.7
11 (commencing with Section 11385) and the amount of funding
12 specifically included in the Protective Services Subaccount within
13 the Support Services Account within the Local Revenue Fund
14 2011 plus any associated growth funding from the Support Services
15 Growth Subaccount within the Sales and Use Tax Growth Account
16 to pay the costs of extending aid pursuant to this section, the
17 Department of Finance shall certify that fact, in writing, and shall
18 post the certification on its Internet Web site, at which time
19 subparagraph (A) of paragraph (3) shall no longer be implemented.

20 (h) It is the intent of the Legislature that no county currently
21 participating in the Child Welfare Demonstration Capped
22 Allocation Project be adversely impacted by the department's
23 exercise of its option to extend foster care benefits pursuant to
24 Section 673(a)(4) and Section 675(8) of Title 42 of the United
25 States Code in the federal Social Security Act, as contained in the
26 federal Fostering Connections to Success and Increasing Adoptions
27 Act of 2008 (Public Law 110-351). Therefore, the department shall
28 negotiate with the United States Department of Health and Human
29 Services on behalf of those counties that are currently participating
30 in the demonstration project to ensure that those counties receive
31 reimbursement for these new programs outside of the provisions
32 of those counties' waiver under Subtitle IV-E (commencing with
33 Section 470) of the federal Social Security Act (42 U.S.C. Sec.
34 670 et seq.).

35 (i) The department, on or before July 1, 2013, shall develop
36 regulations to implement this section in consultation with
37 concerned stakeholders, including, but not limited to,
38 representatives of the Legislature, the County Welfare Directors
39 Association, the Chief Probation Officers of California, the Judicial
40 Council, representatives of Indian tribes, the California Youth

1 Connection, former foster youth, child advocacy organizations,
2 labor organizations, juvenile justice advocacy organizations, foster
3 caregiver organizations, and researchers. In the development of
4 these regulations, the department shall consider its Manual of
5 Policy and Procedures, Division 30, Chapter 30-912, 913, 916,
6 and 917, as guidelines for developing regulations that are
7 appropriate for young adults who can exercise incremental
8 responsibility concurrently with their growth and development.
9 The department, in its consultation with stakeholders, shall take
10 into consideration the impact to the Automated Child Welfare
11 Services Case Management Services (CWS-CMS) and required
12 modifications needed to accommodate eligibility determination
13 under this section, benefit issuance, case management across
14 counties, and recognition of the legal status of nonminor
15 dependents as adults, as well as changes to data tracking and
16 reporting requirements as required by the Child Welfare System
17 Improvement and Accountability Act as specified in Section
18 10601.2, and federal outcome measures as required by the federal
19 John H. Chafee Foster Care Independence Program (42 U.S.C.
20 Sec. 677(f)). In addition, the department, in its consultation with
21 stakeholders, shall define the supervised independent living setting
22 which shall include, but not be limited to, apartment living, room
23 and board arrangements, college or university dormitories, and
24 shared roommate settings, and define how those settings meet
25 health and safety standards suitable for nonminors. The department,
26 in its consultation with stakeholders, shall define the six-month
27 certification of the conditions of eligibility pursuant to subdivision
28 (b) to be consistent with the flexibility provided by federal policy
29 guidance, to ensure that there are ample supports for a nonminor
30 to achieve the goals of his or her transition independent living case
31 plan. The department, in its consultation with stakeholders, shall
32 ensure that notices of action and other forms created to inform the
33 nonminor of due process rights and how to access them shall be
34 developed, using language consistent with the special needs of the
35 nonminor dependent population.

36 (j) Notwithstanding the Administrative Procedure Act, Chapter
37 3.5 (commencing with Section 11340) of Part 1 of Division 3 of
38 Title 2 of the Government Code, the department shall prepare for
39 implementation of the applicable provisions of this section by
40 publishing, after consultation with the stakeholders listed in

1 subdivision (i), all-county letters or similar instructions from the
2 director by October 1, 2011, to be effective January 1, 2012.
3 Emergency regulations to implement the applicable provisions of
4 this act may be adopted by the director in accordance with the
5 Administrative Procedure Act. The initial adoption of the
6 emergency regulations and one readoption of the emergency
7 regulations shall be deemed to be an emergency and necessary for
8 the immediate preservation of the public peace, health, safety, or
9 general welfare. Initial emergency regulations and the first
10 readoption of those emergency regulations shall be exempt from
11 review by the Office of Administrative Law. The emergency
12 regulations authorized by this section shall be submitted to the
13 Office of Administrative Law for filing with the Secretary of State
14 and shall remain in effect for no more than 180 days.

15 SEC. 9. Section 11405 of the Welfare and Institutions Code is
16 amended to read:

17 11405. (a) Except for nonminors described in paragraph (2)
18 of subdivision (e), AFDC-FC benefits shall be paid to an otherwise
19 eligible child living with a nonrelated legal guardian, provided
20 that the legal guardian cooperates with the county welfare
21 department in all of the following:

22 (1) Developing a written assessment of the child's needs.
23 (2) Updating the assessment no less frequently than once every
24 six months.

25 (3) Carrying out the case plan developed by the county.

26 (b) Except for nonminors described in paragraph (2) of
27 subdivision (e), when AFDC-FC is applied for on behalf of a child
28 living with a nonrelated legal guardian the county welfare
29 department shall do all of the following:

30 (1) Develop a written assessment of the child's needs.
31 (2) Update those assessments no less frequently than once every
32 six months.

33 (3) Develop a case plan that specifies how the problems
34 identified in the assessment are to be addressed.

35 (4) Make visits to the child as often as appropriate, but in no
36 event less often than once every six months.

37 (c) Where the child is a parent and has a child living with him
38 or her in the same eligible facility, the assessment required by
39 paragraph (1) of subdivision (a) shall include the needs of his or
40 her child.

1 (d) Nonrelated legal guardians of eligible children who are in
2 receipt of AFDC-FC payments described in this section shall be
3 exempt from the requirement to register with the Statewide
4 Registry of Private Professional Guardians pursuant to Sections
5 2850 and 2851 of the Probate Code.

6 (e) (1) A nonminor youth whose nonrelated guardianship was
7 ordered in juvenile court pursuant to Section 360 or 366.26, and
8 whose dependency was dismissed, shall remain eligible for
9 AFDC-FC benefits until the youth attains 21 years of age, provided
10 that the youth enters into a mutual agreement with the agency
11 responsible for his or her guardianship, and the youth is meeting
12 the conditions of eligibility, as described in paragraphs (1) to (5),
13 inclusive, of subdivision (b) of Section 11403.

14 (2) A nonminor former dependent or ward as defined in
15 paragraph (2) of subdivision (aa) of Section 11400 shall be eligible
16 for benefits under this section until the youth attains 21 years of
17 age if all of the following conditions are met:

18 (A) The nonminor former dependent or ward attained 18 years
19 of age while in receipt of Kin-GAP benefits pursuant to Article
20 4.7 (commencing with Section 11385).

21 (B) The nonminor's relationship to the kinship guardian is
22 defined in paragraph (2), (3), or (4) of subdivision (c) of Section
23 11391.

24 (C) The nonminor who was under 16 years of age at the time
25 the Kin-GAP negotiated agreement payments commenced.

26 (D) The guardian continues to be responsible for the support of
27 the nonminor.

28 (E) The nonminor otherwise is meeting the conditions of
29 eligibility, as described in paragraphs (1) to (5), inclusive, of
30 subdivision (b) of Section 11403.

31 (f) A child whose nonrelated guardianship was ordered in
32 probate court pursuant Article 2 (commencing with Section 1510)
33 of Chapter 1 of Part 2 of Division 4 of the Probate Code, who is
34 attending high school or the equivalent level of vocational or
35 technical training on a full-time basis, or who is in the process of
36 pursuing a high school equivalency certificate prior to his or her
37 18th birthday may continue to receive aid following his or her 18th
38 birthday as long as the child continues to reside in the guardian's
39 home, remains otherwise eligible for AFDC-FC benefits and
40 continues to attend high school or the equivalent level of vocational

1 or technical training on a full-time basis, or continues to pursue a
2 high school equivalency certificate, and the child may reasonably
3 be expected to complete the educational or training program or to
4 receive a high school equivalency certificate, before his or her
5 19th birthday. Aid shall be provided to an individual pursuant to
6 this section provided that both the individual and the agency
7 responsible for the foster care placement have signed a mutual
8 agreement, if the individual is capable of making an informed
9 agreement, documenting the continued need for out-of-home
10 placement.

11 (g) (1) For cases in which a guardianship was established on
12 or before June 30, 2011, or the date specified in a final order, for
13 which the time for appeal has passed, issued by a court of
14 competent jurisdiction in California State Foster Parent
15 Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct.
16 No. C 07-05086 WHA), whichever is earlier, the AFDC-FC
17 payment described in this section shall be the foster family home
18 rate structure in effect prior to the effective date specified in the
19 order described in this paragraph.

20 (2) For cases in which guardianship has been established on or
21 after July 1, 2011, or the date specified in the order described in
22 paragraph (1), whichever is earlier, the AFDC-FC payments
23 described in this section shall be the basic foster family home rate
24 set forth in paragraph (1) of subdivision (g) of Section 11461.

25 (3) The AFDC-FC payments identified in this subdivision shall
26 be adjusted annually by the percentage change in the California
27 Necessities Index rate as set forth in paragraph (2) of subdivision
28 (g) of Section 11461.

29 (h) In addition to the AFDC-FC rate paid, all of the following
30 also shall be paid:

31 (1) A specialized care increment, if applicable, as set forth in
32 subdivision (e) of Section 11461.

33 (2) A clothing allowance, as set forth in subdivision (f) of
34 Section 11461.

35 (3) For a child eligible for an AFDC-FC payment who is a teen
36 parent, the rate shall include the two hundred dollar (\$200) monthly
37 payment made to the relative caregiver in a whole family foster
38 home pursuant to paragraph (3) of subdivision (d) of Section
39 11465.

1 SEC. 10. If the Commission on State Mandates determines
2 that this act contains costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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SENATE COMMITTEE ON HUMAN SERVICES

Senator McGuire, Chair

2015 - 2016 Regular

Bill No: SB 12
Author: Beall
Version: March 17, 2015
Urgency: No
Consultant: Sara Rogers
Hearing Date: March 24, 2015
Fiscal: Yes

Subject: Foster youth

SUMMARY

Permits a nonminor who is between the age of 18 and 21, and who was subject to an order for foster care placement, as either a dependent or a ward, at any time after attaining 12 years of age to petition the court to reenter extended foster care.

ABSTRACT

Existing law:

- 1) Establishes the California Fostering Connections to Success Act (*AB 12, Beall and Bass, Chapter 559 Statutes of 2010*), which corresponds with the federal Fostering Connections to Success Act that provides an option for states to receive federal financial participation for federally-eligible nonminor dependents or former dependents of the juvenile court who are between the ages of 18 and 21, and who satisfy certain conditions. (*WIC 11403*)
- 2) Establishes multiple programs of support for dependent or former dependent children and the families that care for them. Each of the federally reimbursed programs has a corollary state-only funded program for children who are not eligible under Aid to Families with Dependent Children (AFDC) income eligibility criteria from 1996. These programs include:
 - Aid to Families with Dependent Children-Foster Care (AFDC-FC); (*WIC 11401*)
 - Kinship Guardianship Assistance Payment Program (Kin-GAP); (*WIC 11360; WIC 11385*)
 - Adoption Assistance Program (AAP); (*WIC 16115*)
 - Non Relative Legal Guardianship (NRLG); (*WIC 11405*)
 - CalWORKs (for non-Title IV-E eligible children in foster care residing with relatives). (*WIC 11250*)
- 3) Provides for the voluntary continuation or re-entry into extended foster care for eligible nonminor dependents and former dependents when the nonminor youth has signed a voluntary mutual agreement and meets one or more of the following requirements:
 - The nonminor is completing a high school education or a program leading to an equivalent credential;
 - The nonminor is enrolled in a postsecondary or vocational education program;
 - The nonminor is participating in a program or activity designed to promote, or remove barriers to, employment;

- The nonminor is employed at least 80 hours per month;
 - The nonminor is incapable of doing any of these activities due to a medical condition and the incapacity is supported by regularly updated information in the case plan of the nonminor dependent. (*WIC 11403 (b) and WIC 388.1*)
- 4) Permits a nonminor former dependent or delinquent who turned 18 years of age while under the order of a foster care placement and who is under the age of 21 to petition the court which found the nonminor to be a dependent or delinquent child to resume dependency jurisdiction. (*WIC 388*)
 - 5) Establishes that a youth who reaches adulthood while receiving federal or state Kin-GAP or AAP is only eligible for extended foster care if he or she entered the program after reaching age 16, or at any age, if the child has a qualifying mental or physical disability. (*WIC 11362; WIC11386; WIC 11403.01*)

This bill:

- 1) Permits a nonminor who is between the age of 18 and 21, and who was subject to an order for foster care placement, as either a dependent or a ward, at any time after attaining 12 years of age to petition the court to resume jurisdiction and enter extended foster care.
- 2) Makes additional non-substantive technical amendments.

FISCAL IMPACT

This bill has not been analyzed by a fiscal committee.

BACKGROUND AND DISCUSSION

Purpose of the bill:

According to the author, youth who are forced to leave the foster care system at age 18 face significant challenges including high rates of homelessness, incarceration, reliance on public assistance, teen pregnancy, and low rates of high school and postsecondary graduation. The author states that to address the needs of these children, California passed AB 12 (*Beall and Bass, Chapter 559, Statutes of 2010*) the California Fostering Connections to Success Act, which provided foster youth with the opportunity to remain in foster care for up to three additional years in order to prepare for transition to adult life.

However, the author states that several small but vulnerable populations of former foster youth are currently excluded from extended foster care. Specifically, the author states that under current law, former foster youth whose caretaker relationship failed soon after the youth reached the age of 18 are excluded from reentering into extended foster care, as are youth who have crossed over from the dependency system to the delinquency system as teens and were either temporarily in a secure juvenile facility at age 18 or were returned to the home of a relative.

Juvenile Court

The Juvenile Court of a county consists of multiple types of proceedings including dependency and delinquency proceedings which make determinations regarding the safety, wellbeing and placement of children found to be under court jurisdiction.

Juvenile Dependency proceedings, governed by Welfare and Institutions Code (WIC) Section 300, relate to the protection of children who have been, or are at risk of being, abused, neglected, or abandoned by parents or family members. This section of law guides court determinations about the unfitness of the parent or home and whether a minor has suffered, or is at risk of suffering, harm. It permits the court to adjudge a child to be a dependent child of the court, thus enabling a court to take certain actions to protect the child.

Juvenile Delinquency proceedings, governed by WIC 602, involve children under the age of 18 alleged to have committed a delinquent act which would be a crime if committed by an adult including robbery, murder, drug offenses and prostitution. Under WIC 602, the court may find a minor to be a ward of the court and place a child under the responsibility of the county probation department. WIC 725 and WIC 790 permit the court to place a delinquent youth on probationary status, and to make a determination of the suitability of a prospective placement – if the home is not deemed a suitable placement, the court may place the youth in the home of someone who is not the parent or legal guardian, in a residential facility such as a group home, or in a therapeutic facility.

A handful of counties have established “dual jurisdiction” proceedings, which permit a youth to maintain both dependency and delinquency status simultaneously, however in most counties, the establishment of delinquency status requires the termination of dependency status. However, existing law under WIC 241.1, requires counties to develop joint written protocols between the two systems to determine which status will serve the best interests of the minor and the protection of society. The recommendations of both departments are presented to the Juvenile Court with the petition that is filed on behalf of the minor, and the court determines which status is appropriate for the minor. Implementation of WIC 241.1 has been inconsistent throughout the state, and has not resolved the difficulties that “cross over” youth face.

Cross-Over Youth

Supporters of this legislation include legal aide organizations that serve the needs of transition-aged youth who often face homelessness and other challenges. These supporters state that many of the youth they serve “crossed over” from the dependency system into the delinquency system, often for small offenses, and were never returned to dependency status, nor were safely reunited with a parent or legal guardian. Instead, these youth are often placed with a relative, another caregiver, or -- unsafely -- with a parent who had previously lost custody of the child. These placements leave the youth and caregivers without the numerous services and supports that would have been provided had the youth resumed dependency jurisdiction, or been placed into an approved foster care placement by the probation officer. It also and prevents the youth from petitioning the court later to enter extended foster care.

According to the Youth Law Center, a sponsor of this bill, in most counties, there is no system to formally or informally identify a youth in the delinquency system as having come from dependency, and the court often lacks information about the original circumstances warranting the child’s initial removal from home.

Youth Law Center additionally cites a study of child welfare and probation supervised youth that existed Los Angeles County's juvenile court system which found that youth that crossed over from dependency to delinquency experienced negative outcomes at twice the rate of youth coming into contact with only child welfare or probation. YLC states that the study reveals that crossover youth are twice as likely to be heavy users of public systems, three times as likely to experience a jail stay, one and a half times more likely to receive General Relief, and 50 percent less likely to be consistently employed than other groups of former foster youth.

Additionally, in many cases, supporters state that placing a child in an informal custodial relationship may leave the child vulnerable to losing the ongoing support of the custodial caregiver, and becoming homeless, dropping out of school, etc. Although probation departments are able to approve a relative's home as a foster home, thus entitling the youth and the family to Title 4-E foster care services, including AB 12 benefits, in many cases the child is placed with the relative informally.

Existing law, under WIC 1700, stresses the intended rehabilitative (as opposed to retributive) purpose of the state's juvenile justice system in ensuring the protection of society from criminal activity of juveniles, however a juvenile hall is generally analogous to county jails and advocates maintain that rehabilitative treatments and educational opportunities are highly variable across county jurisdictions.

Unlike the CWS, which is county-run but governed by an extensive state and federal regulatory and quality assurance structure under the Department of Social Services and the federal Administration for Children and Families, county probation systems have no analogous statewide oversight and quality assurance mechanism for the programmatic components of the system. The Corrections Standards Authority (CSA) enforces minimum regulatory standards for both adult and juvenile detention facilities pursuant to the California Code of Regulations, Title 15, however, the programmatic elements of probation departments are highly varied in scope and quality.

Prior legislation:

AB 12 (Beall and Bass, Chapter 559, Statutes of 2010) established the California Fostering Connections to Success Act, which extended transitional foster care services to eligible youth between ages 18 and 21 and required California to seek federal financial participation for the Kinship Guardianship Assistance Program (Kin-GAP).

AB 212 (Beall, Chapter 459, Statutes of 2011) made technical and clarifying changes to the California Fostering Connections to Success Act (AB 12).

AB 1712 (Beall, Chapter 846, Statutes of 2012) expanded the definition of relative caregiver to include nonrelative extended family members and tribal members and made other technical and clarifying changes to the California Fostering Connections to Success Act (AB 12).

AB 787 (Stone, Chapter 487, Statutes of 2013) among other provisions, allows re-entry into nonminor dependency for nonminor former dependents who reached permanency and whose guardian died before their 21st birthday.

AB 985 (Cooley, 2013) would have expanded eligibility for extended state Kin-GAP benefits to age 21 to youth who attain 18 years of age while receiving federal or state KinGAP benefits and

who entered the program prior to reaching the age of 16, subject to specified criteria. This bill was held on suspense in Senate Appropriations Committee.

AB 2454 (Quirk-Silva, Chapter 769, Statutes of 2014) permitted a nonminor former dependent who previously received extended Kinship Guardianship Assistance Payment (Kin-GAP) or Adoption Assistance Payment (AAP), but whose former guardians are no longer providing support to the nonminor, to petition the court to resume dependency under the extended foster care program.

COMMENTS

The bill, as drafted, would provide any youth who had ever been subject to a foster care placement order, whether as a dependent or delinquent, at any time after the age of 12, to petition to re-enter foster care, regardless of the circumstances of the youth and their involvement in either system.

In 2014, CDSS reports there were 4,100 probation-supervised foster youth, with more than 2,600 between the ages of 11-17. In addition, there are nearly 20,000 child welfare supervised foster youth between the ages of 11-17. Senate Appropriations has estimated the state cost to providing extended foster care benefits to a nonminor dependent to be in the range of \$78,000 to \$103,000 (General Fund) per year for each nonminor.

Staff recommends the bill be narrowed in accordance with the attached mock up to more precisely capture the population of cross-over youth that the author intended to address – specifically, delinquent youth who have been subject to an order for foster care placement and were never safely reunited with a parent or legal guardian, either because the youth happened to have been placed in a locked facility on their 18th birthday, or because the youth was informally placed in the home of a relative, both circumstances having the effect of depriving youth access to numerous foster care services and supports, including AB 12, that are essential to their successful transition to adulthood.

POSITIONS

Support:

Youth Law Center (Sponsor)
Advokids
Alliance for Children's Rights
California Coalition for Youth
California Youth Connection
Children Now
Children's Defense Fund
Children's Rights Project at Public Counsel
Court Appointed Special Advocates for Children of Santa Cruz County
Court Appointed Special Advocates for Children of Ventura County
East Bay Children's Law Offices
East Bay Community Law Center
First Place for Youth
Frontier High School in the Whittier Union School District
National Foster Youth Institute

Legal Services for Children

Oppose:

Chief Probation Officers of California

-- END --

Amendments Mock-up for 2015-2016 SB-12 (Beall (S))

*******Amendments are in BOLD*******

**Mock-up based on Version Number 97 - Amended Senate 3/17/15
Submitted by: Staff Name, Office Name**

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 303 of the Welfare and Institutions Code is amended to read:

303. (a) The court may retain jurisdiction over any person who is found to be a ward or a dependent child of the juvenile court until the ward or dependent child attains the age of 21 years.

(b) The court shall have within its jurisdiction any nonminor dependent, as defined in subdivision (v) of Section 11400. The court may terminate its dependency, delinquency, or transition jurisdiction over the nonminor dependent between the time the nonminor reaches the age of majority and 21 years of age. If the court terminates dependency, delinquency, or transition jurisdiction, the nonminor dependent shall remain under the general jurisdiction of the court in order to allow for a petition under subdivision (e) of Section 388.

(c) A nonminor who has not yet attained 21 years of age and who **meets any of the following conditions** may petition the court pursuant to subdivision (e) of Section 388 to resume dependency jurisdiction over himself or herself or to assume transition jurisdiction over himself or herself pursuant to Section 450: **was previously under the jurisdiction of the juvenile court subject to an order for foster care placement at any time after attaining 12 years of age,**

(1) Exited foster care at or after the age of majority.

(2) Was subject to an order for foster care placement any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian.

(3) Was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years, and was in secure confinement.

(d) (1) Nothing in this code, including, but not limited to, Sections 340, 366.27, and 369.5, shall be construed to provide legal custody of a person who has attained 18 years of age to the county welfare or probation department or to otherwise abrogate any other rights that a person who has attained 18 years of age may have as an adult under California law. A nonminor dependent shall retain all of his or her legal decisionmaking authority as an adult. The nonminor shall enter into a mutual agreement for placement, as described in subdivision (u) of Section 11400, unless the nonminor dependent is incapable of making an informed agreement, or a voluntary reentry agreement, as described in subdivision (z) of Section 11400, for placement and care in which the nonminor consents to placement and care in a setting supervised by, and under the responsibility of, the county child welfare services department, the county probation department, or Indian

tribe, tribal organization, or consortium of tribes that entered into an agreement pursuant to Section 10553.1.

(2) A nonminor dependent who remains under delinquency jurisdiction in order to complete his or her rehabilitative goals and is under a foster care placement order is not required to complete the mutual agreement as described in subdivision (u) of Section 11400. His or her adult decisionmaking authority may be limited by and subject to the care, supervision, custody, conduct, and maintenance orders as described in Section 727.

(e) Unless otherwise specified, the rights of a dependent child and the responsibilities of the county welfare or probation department, or tribe, and other entities, toward the child and family, shall also apply to nonminor dependents.

SEC. 2. Section 388 of the Welfare and Institutions Code is amended to read:

388. (a) (1) Any parent or other person having an interest in a child who is a dependent child of the juvenile court or a nonminor dependent as defined in subdivision (v) of Section 11400, or the child himself or herself or the nonminor dependent through a properly appointed guardian may, upon grounds of change of circumstance or new evidence, petition the court in the same action in which the child was found to be a dependent child of the juvenile court or in which a guardianship was ordered pursuant to Section 360 for a hearing to change, modify, or set aside any order of court previously made or to terminate the jurisdiction of the court. The petition shall be verified and, if made by a person other than the child or the nonminor dependent shall state the petitioner's relationship to or interest in the child or the nonminor dependent and shall set forth in concise language any change of circumstance or new evidence that is alleged to require the change of order or termination of jurisdiction.

(2) When any party, including a child who is a dependent of the juvenile court, petitions the court prior to an order terminating parental rights, to modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or to modify any orders related to custody or visitation of the subject child, and the court orders a hearing pursuant to subdivision (d), the court shall modify the order that reunification services were not needed pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, or any orders related to the custody or visitation of the child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, only if the court finds by clear and convincing evidence that the proposed change is in the best interests of the child.

(b) (1) Any person, including a child or a nonminor dependent who is a dependent of the juvenile court, may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is, or is the subject of a petition for adjudication as, a dependent of the juvenile court, and may request visitation with the dependent child, placement with or near the dependent child, or consideration when determining or implementing a case plan or permanent plan for the dependent child or make any other request for an order which may be shown to be in the best interest of the dependent child.

(2) A child or nonminor dependent who is a dependent of the juvenile court may petition the court to assert a relationship as a sibling related by blood, adoption, or affinity through a common legal or biological parent to a child who is in the physical custody of a common legal or biological parent, and may request visitation with the nondependent sibling in parental custody.

(3) Pursuant to subdivision (b) of Section 16002, a request for sibling visitation may be granted unless it is determined by the court that sibling visitation is contrary to the safety and well-being of any of the siblings.

(4) The court may appoint a guardian ad litem to file the petition for a dependent child asserting a sibling relationship pursuant to this subdivision if the court determines that the appointment is necessary for the best interests of the dependent child. The petition shall be verified and shall set forth the following:

(A) Through which parent he or she is related to the sibling.

(B) Whether he or she is related to the sibling by blood, adoption, or affinity.

(C) The request or order that the petitioner is seeking.

(D) Why that request or order is in the best interest of the dependent child.

(c) (1) Any party, including a child who is a dependent of the juvenile court, may petition the court, prior to the hearing set pursuant to subdivision (f) of Section 366.21 for a child described by subparagraph (A) of paragraph (1) of subdivision (a) of Section 361.5, or prior to the hearing set pursuant to subdivision (e) of Section 366.21 for a child described by subparagraph (B) or (C) of paragraph (1) of subdivision (a) of Section 361.5, to terminate court-ordered reunification services provided under subdivision (a) of Section 361.5 only if one of the following conditions exists:

(A) It appears that a change of circumstance or new evidence exists that satisfies a condition set forth in subdivision (b) or (e) of Section 361.5 justifying termination of court-ordered reunification services.

(B) The action or inaction of the parent or guardian creates a substantial likelihood that reunification will not occur, including, but not limited to, the parent's or guardian's failure to visit the child, or the failure of the parent or guardian to participate regularly and make substantive progress in a court-ordered treatment plan.

(2) In determining whether the parent or guardian has failed to visit the child or participate regularly or make progress in the treatment plan, the court shall consider factors that include but are not limited to, the parent's or guardian's incarceration, institutionalization, detention by the United States Department of Homeland Security, deportation, or participation in a court-ordered residential substance abuse treatment program.

(3) The court shall terminate reunification services during the above-described time periods only upon a finding by a preponderance of evidence that reasonable services have been offered or provided, and upon a finding of clear and convincing evidence that one of the conditions in subparagraph (A) or (B) of paragraph (1) exists.

(4) Any party, including a nonminor dependent, as defined in subdivision (v) of Section 11400, may petition the court prior to the review hearing set pursuant to subdivision (d) of Section 366.31 to terminate the continuation of court-ordered family reunification services for a nonminor dependent who has attained 18 years of age. The court shall terminate family

reunification services to the parent or guardian if the nonminor dependent or parent or guardian are not in agreement that the continued provision of court-ordered family reunification services is in the best interests of the nonminor dependent.

(5) If the court terminates reunification services, it shall order that a hearing pursuant to Section 366.26 be held within 120 days. On and after January 1, 2012, a hearing pursuant to Section 366.26 shall not be ordered if the child is a nonminor dependent. The court may order a nonminor dependent who is otherwise eligible to AFDC-FC benefits pursuant to Section 11403 to remain in a planned, permanent living arrangement.

(d) If it appears that the best interests of the child or the nonminor dependent may be promoted by the proposed change of order, modification of reunification services, custody, or visitation orders concerning a child for whom reunification services were not ordered pursuant to paragraphs (4), (5), and (6) of subdivision (b) of Section 361.5, recognition of a sibling relationship, termination of jurisdiction, or clear and convincing evidence supports revocation or termination of court-ordered reunification services, the court shall order that a hearing be held and shall give prior notice, or cause prior notice to be given, to the persons and in the manner prescribed by Section 386, and, in those instances in which the manner of giving notice is not prescribed by those sections, then in the manner the court prescribes.

(e) (1) A nonminor who meets one of the following conditions or the county child welfare services, probation department, or tribal placing agency on behalf of the nonminor, may petition the court in the same action in which the child was found to be a dependent or delinquent child of the juvenile court, for a hearing to resume the dependency jurisdiction over a former dependent or to assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450. The petition shall be filed within the period that the nonminor is of the age described in this paragraph. If the nonminor has completed the voluntary reentry agreement, as described in subdivision (z) of Section 11400, with the placing agency, the agency shall file the petition on behalf of the nonminor within 15 judicial days of the date the agreement was signed unless the nonminor elects to file the petition at an earlier date.

(i) ~~who~~ The nonminor attained 18 years of age while subject to an order for foster care placement and has not reached the age of 21 years for whom the court has dismissed dependency jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452, but has retained general jurisdiction under subdivision (b) of Section 303. **12 years of age while subject to an order for foster care placement and who has not attained 21 years of age**

(ii) The nonminor has not reached the age of 21 years, was subject to an order for foster care placement any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian, or;

(iii) The nonminor has not reached the age of 21 years, was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years, and was in secure confinement.

(2) (A) The petition to resume jurisdiction may be filed in the juvenile court that retains general jurisdiction under subdivision (b) of Section 303, or the petition may be submitted to the juvenile court in the county where the youth resides and forwarded to the juvenile court that retained general jurisdiction and filed with that court. The juvenile court having general jurisdiction under Section 303 shall receive the petition from the court where the petition was submitted within five

court days of its submission, if the petition is filed in the county of residence. The juvenile court that retained general jurisdiction shall order that a hearing be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies the following criteria:

(i) He or she was previously under juvenile court jurisdiction, *has not reached the age of 21 years, and meets one of the following conditions:*

- *Was subject to an order for foster care placement when he or she attained 18 years of age,*
- *Was subject to an order for foster care placement at any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian.*
- *Was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years, and was in secure confinement.*

~~subject to an order for foster care placement at any time after the youth attained 12 years of age, and has not attained the age limit described in paragraph (1).~~

(ii) He or she intends to satisfy at least one of the conditions set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(iii) He or she wants assistance either in maintaining or securing appropriate supervised placement, or is in need of immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the persons and by the means prescribed by Section 386, except that notice to parents or former guardians shall not be provided unless the nonminor requests, in writing on the face of the petition, notice to the parents or former guardians.

(3) The Judicial Council, by January 1, 2012, shall adopt rules of court to allow for telephonic appearances by nonminor former dependents or delinquents in these proceedings, and for telephonic appearances by nonminor dependents in any proceeding in which the nonminor dependent is a party, and he or she declines to appear and elects a telephonic appearance.

(4) Prior to the hearing on a petition to resume dependency jurisdiction or to assume or resume transition jurisdiction, the court shall order the county child welfare or probation department to prepare a report for the court addressing whether the nonminor intends to satisfy at least one of the criteria set forth in subdivision (b) of Section 11403. When the recommendation is for the nonminor dependent to be placed in a setting where minor dependents also reside, the results of a background check of the petitioning nonminor conducted pursuant to Section 16504.5, may be used by the placing agency to determine appropriate placement options for the nonminor. The existence of a criminal conviction is not a bar to eligibility for reentry or resumption of dependency jurisdiction or the assumption or resumption of transition jurisdiction over a nonminor.

(5) (A) The court shall resume dependency jurisdiction over a former dependent or assume or resume transition jurisdiction over a former delinquent ward pursuant to Section 450, and order that the nonminor's placement and care be under the responsibility of the county child welfare services department, the probation department, tribe, consortium of tribes, or tribal organization, if the court finds all of the following:

(i) The nonminor meets one of the following conditions:

- Was previously under juvenile court jurisdiction subject to an order for foster care placement at any time after he or she attained 12 years of age when he or she attained 18 years of age or;
- Was subject to an order for foster care placement any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian or;
- Was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years, and was in secure confinement.

(ii) The nonminor has not attained the age limit described in paragraph (1).

(iii) Reentry and remaining in foster care are in the nonminor's best interests.

(iv) The nonminor intends to satisfy, and agrees to satisfy, at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and demonstrates his or her agreement to placement in a supervised setting under the placement and care responsibility of the placing agency and to satisfy the criteria by signing the voluntary reentry agreement as described in subdivision (z) of Section 11400.

(B) In no event shall the court grant a continuance that would cause the hearing to resume dependency jurisdiction or to assume or resume transition jurisdiction to be completed more than 120 days after the date the petition was filed.

(C) The agency made responsible for the nonminor's placement and care pursuant to subparagraph (A) shall prepare a new transitional independent living case plan within 60 calendar days from the date the nonminor signed the voluntary reentry agreement as described in subdivision (z) of Section 11400 and submit it to the court for the review hearing under Section 366.31, to be held within 70 days of the resumption of dependency jurisdiction or assumption or resumption of transition jurisdiction. In no event shall the review hearing under Section 366.3 be held more than 170 calendar days from the date the nonminor signed the voluntary reentry agreement.

SEC. 3. Section 388.1 of the Welfare and Institutions Code is amended to read:

388.1. (a) On and after January 1, 2014, a nonminor who has not attained 21 years of age may petition the court in which he or she was previously found to be a dependent or delinquent child of the juvenile court for a hearing to determine whether to assume dependency jurisdiction over the nonminor, if he or she meets any of the following descriptions:

(1) He or she is a nonminor former dependent, as defined in subdivision (aa) of Section 11400, who received aid after attaining 18 years of age under Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, or pursuant to subdivision (e) of Section 11405, and whose former guardian or guardians died after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

(2) He or she is a nonminor former dependent, as defined in subdivision (aa) of Section 11400, who received aid after attaining 18 years of age under Kin-GAP pursuant to Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) of Chapter 2 of Part 3 of Division 9, or pursuant to subdivision (e) of Section 11405, and whose former guardian or guardians no longer provide ongoing support to, *and no longer receive aid on behalf of*, the nonminor after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

(3) He or she is a nonminor who received adoption assistance payments after attaining 18 years of age pursuant to Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9 and his or her adoptive parent or parents died after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

(4) He or she is a nonminor who received adoption assistance payments after attaining 18 years of age pursuant to Chapter 2.1 (commencing with Section 16115) of Part 4 of Division 9 and his or her adoptive parent or parents no longer provide ongoing support to, and no longer receive aid on behalf of, the nonminor after the nonminor attained 18 years of age, but before he or she attains 21 years of age.

(5) He or she is a nonminor who was previously under the jurisdiction of the juvenile court subject to an order for foster care placement at any time after he or she attained 12 years of age and who has not attained 21 years of age.

(5) He or she was subject to an order for foster care placement any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian and he or she has not reached the age of 21 years.

(6) He or she was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years and was in secure confinement, and has not reached the age of 21 years.

(b) (1) The petition to assume jurisdiction may be filed in either of the following:

(A) The juvenile court that established the guardianship pursuant to Section 360, Section 366.26, or subdivision (d) of Section 728.

(B) The juvenile court that had jurisdiction over the minor or nonminor dependent when his or her adoption was finalized.

(2) A nonminor described in subdivision (a) may submit a petition to assume dependency jurisdiction to the juvenile court in the county where he or she resides. A petition submitted pursuant to this paragraph shall, within five days of submission, be forwarded to the court that

had jurisdiction over the child at the time of the guardianship or adoption. The clerk of the court that had jurisdiction over the child at the time of the guardianship or adoption shall file the petition within one judicial day of receipt.

(c) (1) The juvenile court in which the petition was filed shall order a hearing to be held within 15 judicial days of the date the petition was filed if there is a prima facie showing that the nonminor satisfies all of the following criteria:

(A) He or she was a minor under juvenile court jurisdiction at the time of the establishment of a guardianship pursuant to Section 360, Section 366.26, or subdivision (d) of Section 728, or he or she was a minor or nonminor dependent when his or her adoption was finalized.

(B) (i) His or her guardian or guardians, or adoptive parent or parents, as applicable, died after the nonminor attained 18 years of age, but before he or she attained 21 years of age.

(ii) His or her guardian or guardians, or adoptive parent or parents, as applicable, no longer provide ongoing support to, and no longer receive aid on behalf of, the nonminor after the nonminor attained 18 years of age, but before he or she attained 21 years of age, and it may be in the nonminor's best interest for the court to assume dependency jurisdiction.

(C) He or she intends to satisfy at least one of the conditions set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(D) He or she is requesting assistance in maintaining or securing appropriate supervised placement, or needs immediate placement and agrees to supervised placement pursuant to the voluntary reentry agreement described in subdivision (z) of Section 11400.

(2) Upon ordering a hearing, the court shall give prior notice, or cause prior notice to be given, to the nonminor, the appropriate child welfare agency or probation department, and any other person requested by the nonminor in the petition.

(3) Pursuant to applicable rules of court, the juvenile court shall allow for telephonic appearances by the nonminor in these proceedings and in any proceeding in which the nonminor dependent is a party.

(4) Prior to the hearing, the court shall order the county child welfare or probation department to prepare a report for the court that addresses both of the following:

(A) The nonminor's plans to satisfy at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(B) The appropriate placement setting for the nonminor. When the recommendation is for the nonminor to be placed in a setting where minor dependents also reside, the results of a background check of the petitioning nonminor conducted pursuant to Section 16504.5 may be used by the placing agency to determine appropriate placement options for him or her.

(5) The court shall assume dependency jurisdiction over a former dependent or ward, and order his or her placement and care be under the responsibility of the county child welfare services department, the probation department, tribe, consortium of tribes, or tribal organization, if the court finds all of the following:

(A) The nonminor was a minor under juvenile court jurisdiction at the time of the establishment of a guardianship pursuant to Section 360, Section 366.26, or subdivision (d) of Section 728, or he or she was a dependent at the time his or her adoption was finalized.

(B) The nonminor's guardian or guardians, or adoptive parent or parents, as applicable, have died, or no longer provide ongoing support to, and no longer receive aid on behalf of, the nonminor, and it is in the nonminor's best interests for the court to assume dependency jurisdiction.

(C) The nonminor has not attained 21 years of age.

(D) Reentry and remaining in foster care are in the nonminor's best interests.

(E) The nonminor intends to satisfy, and agrees to satisfy, at least one of the criteria set forth in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and demonstrates his or her agreement to placement in a supervised setting under the placement and care responsibility of the placing agency by signing the voluntary reentry agreement described in subdivision (z) of Section 11400.

(6) The existence of a criminal conviction is not a bar to eligibility for reentry to foster care or assumption of dependency jurisdiction over a nonminor.

(7) The court shall not grant a continuance that would cause the hearing to be completed more than 120 days after the date the petition is filed.

(d) The agency made responsible for the nonminor's placement and care pursuant to paragraph (5) of subdivision (c) shall prepare a new transitional independent living case plan within 60 calendar days of the date the nonminor signs the voluntary reentry agreement and shall submit the plan to the court for the review hearing specified in Section 366.31, to be held within 70 days of the assumption of dependency jurisdiction. The review hearing under Section 366.31 shall not be held more than 170 calendar days from the date the nonminor signs the voluntary reentry agreement.

(e) (1) A nonminor described in subdivision (a) may enter into a voluntary reentry agreement as defined in subdivision (z) of Section 11400 in order to establish eligibility for foster care benefits under subdivision (e) of Section 11401 before or after filing a petition to assume dependency jurisdiction. If the nonminor enters into a voluntary reentry agreement prior to filing the petition, the nonminor is entitled to placement and supervision pending the court's assumption of jurisdiction.

(2) If the nonminor completes a voluntary reentry agreement with a placing agency, the placing agency shall file the petition to assume dependency jurisdiction on behalf of the nonminor within 15 judicial days of the date the agreement is signed, unless the nonminor elects to file the petition at an earlier date.

SEC. 4. Section 450 of the Welfare and Institutions Code is amended to read:

450. (a) A minor or nonminor who satisfies all of the following criteria is within the transition jurisdiction of the juvenile court:

(1) (A) (i) The minor is a ward who is older than 17 years and 5 months of age and younger than 18 years of age and in foster care placement, or;

(ii) The nonminor is a ward in foster care placement who was a ward subject to an order for foster care placement at any time after the youth attained 12 years of age and who has not attained 21 years of age or;

(iii) The non-minor was subject to an order for foster care placement any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian and has not attained the age of 21 years or;

(iv) The non-minor was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years, and was in secure confinement and has not attained 21 years of age.

(B) Notwithstanding subparagraph (A), the nonminor is a ward who has been receiving aid pursuant to Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 of Division 9 and who may continue to receive aid under the applicable program, provided that the nonminor dependent continues to meet all other applicable eligibility requirements as specified in Section 11403.

(2) The ward meets either of the following conditions:

(A) The ward was removed from the physical custody of his or her parents or legal guardian, adjudged to be a ward of the juvenile court under Section 725, and ordered into foster care placement as a ward.

(B) The ward was removed from the custody of his or her parents or legal guardian as a dependent of the court with an order for foster care placement as a dependent in effect at the time the court adjudged him or her to be a ward of the juvenile court under Section 725.

(3) The rehabilitative goals of the minor or nonminor, as set forth in the case plan, have been met, and juvenile court jurisdiction over the minor or nonminor as a ward is no longer required.

(4) (A) If the ward is a minor, reunification services have been terminated; the matter has not been set for a hearing for termination of parental rights pursuant to Section 727.3 or for the establishment of guardianship pursuant to Section 728; the return of the child to the physical custody of the parents or legal guardian would create a substantial risk of detriment to the child's safety, protection, or physical or emotional well-being; and the minor has indicated an intent to sign a mutual agreement, as described in subdivision (u) of Section 11400, with the responsible agency for placement in a supervised setting as a nonminor dependent.

(B) If the ward is a nonminor, he or she has signed a mutual agreement, as described in subdivision (u) of Section 11400, with the responsible agency for placement in a supervised setting as a nonminor dependent or has signed a voluntary reentry agreement, as described in subdivision (z) of Section 11400 for placement in a supervised setting as a nonminor dependent. A runaway and homeless youth shelter licensed by the State Department of Social Services pursuant to Section 1502.35 of the Health and Safety Code shall not be a placement option pursuant to this section.

(b) A minor who is subject to the court's transition jurisdiction shall be referred to as a transition dependent.

(c) A youth subject to the court's transition jurisdiction who is 18 years of age or older shall be referred to as a nonminor dependent.

SEC. 5. Section 607.2 of the Welfare and Institutions Code is amended to read:

607.2. (a) The court shall hold a hearing prior to terminating jurisdiction over a ward who satisfies any of the following criteria:

(1) Is a minor subject to an order for foster care placement described in Section 11402 as a ward who has not previously been subject to the jurisdiction of the court as a result of a petition filed pursuant to Section 325.

(2) Is a nonminor who reached 18 years of age while subject to an order for ~~was subject to an order for~~ foster care placement described in Section 11402 at any time after he or she attained 12 years of age and who has not attained 21 years of age.

(3) Is a ward who was subject to an order for foster care placement described in Section 11402 as a dependent of the court at the time the court adjudged the child to be a ward of the court under Section 725.

(4) Is a nonminor who was subject to an order for foster care placement at any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian and has not reached the age of 21 years.

(5) Is a nonminor who was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years, and was in secure confinement, and has not reached the age of 21 years.

(b) At a hearing during which termination of jurisdiction over a ward described in subdivision (a) is being considered, the court shall take one of the following actions:

(1) Modify its jurisdiction from delinquency jurisdiction to transition jurisdiction, if the court finds the ward is a person described in Section 450.

(2) (A) For a ward who was not previously subject to the jurisdiction of the court as a result of a petition filed pursuant to Section 325, order the probation department or the ward's attorney to submit an application to the child welfare services department pursuant to Section 329 to declare the minor a dependent of the court and modify the court's jurisdiction from delinquency jurisdiction to dependency jurisdiction, if the court finds all of the following:

(i) The ward is a minor.

(ii) The ward does not come within the description in Section 450, but jurisdiction as a ward may no longer be required.

(iii) The ward appears to come within the description of Section 300 and cannot be returned home safely.

(B) The court shall set a hearing within 20 judicial days of the date of the order described in subparagraph (A) to review the child welfare services department's decision and may either affirm its decision not to file a petition pursuant to Section 300 or order the child welfare services department to file a petition pursuant to Section 300.

(3) Vacate the order terminating jurisdiction over the minor as a dependent of the court, resume jurisdiction pursuant to Section 300 based on the prior petition filed pursuant to Section 325, and terminate the court's jurisdiction over the minor as a ward, if the minor was subject to an order for foster care placement described in Section 11402 as a dependent of the court at the time the court adjudged the minor to be a ward and assumed jurisdiction over the minor under Section 725.

(4) Continue its delinquency jurisdiction over a ward pursuant to Section 303 as a nonminor dependent, as defined in subdivision (v) of Section 11400, who is eligible to remain in foster care pursuant to Section 11403, if the ward is a nonminor and the court did not modify its jurisdiction as described in Section 450, unless the court finds that after reasonable and documented efforts, the ward cannot be located or does not wish to become a nonminor dependent. In making this finding and prior to entering an order terminating its delinquency jurisdiction, the court shall ensure that the ward has had an opportunity to confer with his or her counsel and has been informed of his or her options, including the right to reenter foster care placement by completing a voluntary reentry agreement as described in subdivision (z) of Section 11400 and to file a petition pursuant to subdivision (e) of Section 388 for the court to assume or resume transition jurisdiction over him or her pursuant to Section 450. The fact that a ward declines to be a nonminor dependent does not restrict the authority of the court to maintain delinquency jurisdiction pursuant to Section 607.

(5) Continue its delinquency jurisdiction.

(6) Terminate its delinquency jurisdiction if the ward does not come within the provisions of paragraphs (1) to (4), inclusive.

(c) If the court modifies jurisdiction, its order shall comply with the requirements of subdivision (f) of Section 241.1.

(d) This section does not change the requirements of Section 727.2 or 727.3 with respect to reunification of minors with their families or the establishment of an alternative permanent plan for minors for whom reunification is not pursued.

SEC. 6. Section 11400 of the Welfare and Institutions Code is amended to read:

11400. For purposes of this article, the following definitions shall apply:

(a) "Aid to Families with Dependent Children-Foster Care (AFDC-FC)" means the aid provided on behalf of needy children in foster care under the terms of this division.

(b) "Case plan" means a written document that, at a minimum, specifies the type of home in which the child shall be placed, the safety of that home, and the appropriateness of that home to

meet the child's needs. It shall also include the agency's plan for ensuring that the child receive proper care and protection in a safe environment, and shall set forth the appropriate services to be provided to the child, the child's family, and the foster parents, in order to meet the child's needs while in foster care, and to reunify the child with the child's family. In addition, the plan shall specify the services that will be provided or steps that will be taken to facilitate an alternate permanent plan if reunification is not possible.

(c) "Certified family home" means a family residence certified by a licensed foster family agency and issued a certificate of approval by that agency as meeting licensing standards, and used only by that foster family agency for placements.

(d) "Family home" means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(e) "Small family home" means any residential facility, in the licensee's family residence, which provides 24-hour care for six or fewer foster children who have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

(f) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(g) "Foster family agency" means any individual or organization engaged in the recruiting, certifying, and training of, and providing professional support to, foster parents, or in finding homes or other places for placement of children for temporary or permanent care who require that level of care as an alternative to a group home. Private foster family agencies shall be organized and operated on a nonprofit basis.

(h) "Group home" means a nondetention privately operated residential home, organized and operated on a nonprofit basis only, of any capacity, or a nondetention licensed residential care home operated by the County of San Mateo with a capacity of up to 25 beds, that accepts children in need of care and supervision in a group home, as defined by paragraph (13) of subdivision (a) of Section 1502 of the Health and Safety Code.

(i) "Periodic review" means review of a child's status by the juvenile court or by an administrative review panel, that shall include a consideration of the safety of the child, a determination of the continuing need for placement in foster care, evaluation of the goals for the placement and the progress toward meeting these goals, and development of a target date for the child's return home or establishment of alternative permanent placement.

(j) "Permanency planning hearing" means a hearing conducted by the juvenile court in which the child's future status, including whether the child shall be returned home or another permanent plan shall be developed, is determined.

(k) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of the agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 319 or 636, or (4) signed a

voluntary placement agreement for the child's placement; or to the responsibility designated to an individual by virtue of his or her being appointed the child's legal guardian.

(l) "Preplacement preventive services" means services that are designed to help children remain with their families by preventing or eliminating the need for removal.

(m) "Relative" means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words "great," "great-great," or "grand" or the spouse of any of these persons even if the marriage was terminated by death or dissolution.

(n) "Nonrelative extended family member" means an adult caregiver who has an established familial or mentoring relationship with the child, as described in Section 362.7.

(o) "Voluntary placement" means an out-of-home placement of a child by (1) the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement; or (2) the county welfare department licensed public or private adoption agency, or the department acting as an adoption agency, after the parents have requested the assistance of either the county welfare department, the licensed public or private adoption agency, or the department acting as an adoption agency for the purpose of adoption planning, and have signed a voluntary placement agreement.

(p) "Voluntary placement agreement" means a written agreement between either the county welfare department, probation department, or Indian tribe that has entered into an agreement pursuant to Section 10553.1, licensed public or private adoption agency, or the department acting as an adoption agency, and the parents or guardians of a child that specifies, at a minimum, the following:

(1) The legal status of the child.

(2) The rights and obligations of the parents or guardians, the child, and the agency in which the child is placed.

(q) "Original placement date" means the most recent date on which the court detained a child and ordered an agency to be responsible for supervising the child or the date on which an agency assumed responsibility for a child due to termination of parental rights, relinquishment, or voluntary placement.

(r) (1) "Transitional housing placement provider" means an organization licensed by the State Department of Social Services pursuant to Section 1559.110 of the Health and Safety Code, to provide transitional housing to foster children at least 16 years of age and not more than 18 years of age, and nonminor dependents, as defined in subdivision (v). A transitional housing placement provider shall be privately operated and organized on a nonprofit basis.

(2) Prior to licensure, a provider shall obtain certification from the applicable county, in accordance with Section 16522.1.

(s) “Transitional Housing Program-Plus” means a provider certified by the applicable county, in accordance with subdivision (c) of Section 16522, to provide transitional housing services to former foster youth who have exited the foster care system on or after their 18th birthday.

(t) “Whole family foster home” means a new or existing family home, approved relative caregiver or nonrelative extended family member’s home, the home of a nonrelated legal guardian whose guardianship was established pursuant to Section 360 or 366.26, certified family home, or a host family home placement of a transitional housing placement provider, that provides foster care for a minor or nonminor dependent parent and his or her child, and is specifically recruited and trained to assist the minor or nonminor dependent parent in developing the skills necessary to provide a safe, stable, and permanent home for his or her child. The child of the minor or nonminor dependent parent need not be the subject of a petition filed pursuant to Section 300 to qualify for placement in a whole family foster home.

(u) “Mutual agreement” means any of the following:

(1) A written voluntary agreement of consent for continued placement and care in a supervised setting between a minor or, on and after January 1, 2012, a nonminor dependent, and the county welfare services or probation department or tribal agency responsible for the foster care placement, that documents the nonminor’s continued willingness to remain in supervised out-of-home placement under the placement and care of the responsible county, tribe, consortium of tribes, or tribal organization that has entered into an agreement with the state pursuant to Section 10553.1, remain under the jurisdiction of the juvenile court as a nonminor dependent, and report any change of circumstances relevant to continued eligibility for foster care payments, and that documents the nonminor’s and social worker’s or probation officer’s agreement to work together to facilitate implementation of the mutually developed supervised placement agreement and transitional independent living case plan.

(2) An agreement, as described in paragraph (1), between a nonminor former dependent or ward in receipt of Kin-GAP payments under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), and the agency responsible for the Kin-GAP benefits, provided that the nonminor former dependent or ward satisfies the conditions described in Section 11403.01, or one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403. For purposes of this paragraph and paragraph (3), “nonminor former dependent or ward” has the same meaning as described in subdivision (aa).

(3) An agreement, as described in paragraph (1), between a nonminor former dependent or ward in receipt of AFDC-FC payments under subdivision (e) or (f) of Section 11405 and the agency responsible for the AFDC-FC benefits, provided that the nonminor former dependent or ward described in subdivision (e) of Section 11405 satisfies one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, and the nonminor described in subdivision (f) of Section 11405 satisfies the secondary school or equivalent training or certificate program conditions described in that subdivision.

(v) “Nonminor dependent” means a foster child, as described in Section 675(8)(B) of Title 42 of the United States Code under the federal Social Security Act who is a current dependent child or ward of the juvenile court, or who is a nonminor under the transition jurisdiction of the juvenile court, as described in Section 450, and who satisfies all of the following criteria:

(1) He or she **was has not attained 21 years of age and meets one of the following conditions:**

(i) Attained 18 years of age while subject to an order for foster care placement described in Section 11402 **at any time after he or she attained 12 years of age and who has not attained 21 years of age or;**

(ii) Was subject to an order for foster care placement any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian or;

(iii) Was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years, and was in secure confinement.

(2) He or she is in foster care under the placement and care responsibility of the county welfare department, county probation department, Indian tribe, consortium of tribes, or tribal organization that entered into an agreement pursuant to Section 10553.1.

(3) He or she has a transitional independent living case plan pursuant to Section 475(8) of the federal Social Security Act (42 U.S.C. Sec. 675(8)), as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), as described in Section 11403.

(w) “Supervised independent living placement” means, on and after January 1, 2012, an independent supervised setting, as specified in a nonminor dependent’s transitional independent living case plan, in which the youth is living independently, pursuant to Section 472(c)(2) of the Social Security Act (42 U.S.C. Sec. 672(c)(2)).

(x) “Supervised independent living setting,” pursuant to Section 472(c)(2) of the federal Social Security Act (42 U.S.C. Sec. 672(c)(2)), includes both a supervised independent living placement, as defined in subdivision (w), and a residential housing unit certified by the transitional housing placement provider operating a Transitional Housing Placement-Plus Foster Care program, as described in paragraph (2) of subdivision (a) of Section 16522.1.

(y) “Transitional independent living case plan” means, on or after January 1, 2012, a child’s case plan submitted for the last review hearing held before he or she reaches 18 years of age or the nonminor dependent’s case plan, updated every six months, that describes the goals and objectives of how the nonminor will make progress in the transition to living independently and assume incremental responsibility for adult decisionmaking, the collaborative efforts between the nonminor and the social worker, probation officer, or Indian tribal placing entity and the supportive services as described in the transitional independent living plan (TILP) to ensure active and meaningful participation in one or more of the eligibility criteria described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, the nonminor’s appropriate supervised placement setting, and the nonminor’s permanent plan for transition to living independently, which includes maintaining or obtaining permanent connections to caring and committed adults, as set forth in paragraph (16) of subdivision (f) of Section 16501.1.

(z) “Voluntary reentry agreement” means a written voluntary agreement between a former dependent child or ward or a former nonminor dependent, who has had juvenile court jurisdiction terminated pursuant to Section 391, 452, or 607.2, and the county welfare or probation department or tribal placing entity that documents the nonminor’s desire and willingness to reenter foster care, to be placed in a supervised setting under the placement and care responsibility of the placing agency, the nonminor’s desire, willingness, and ability to immediately participate in one or more of the conditions of paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403, the nonminor’s agreement to work collaboratively with the

placing agency to develop his or her transitional independent living case plan within 60 days of reentry, the nonminor's agreement to report any changes of circumstances relevant to continued eligibility for foster care payments, and (1) the nonminor's agreement to participate in the filing of a petition for juvenile court jurisdiction as a nonminor dependent pursuant to subdivision (e) of Section 388 within 15 judicial days of the signing of the agreement and the placing agency's efforts and supportive services to assist the nonminor in the reentry process, or (2) if the nonminor meets the definition of a nonminor former dependent or ward, as described in subdivision (aa), the nonminor's agreement to return to the care and support of his or her former juvenile court-appointed guardian and meet the eligibility criteria for AFDC-FC pursuant to subdivision (e) of Section 11405.

(aa) "Nonminor former dependent or ward" means, on and after January 1, 2012, either any of the following:

(1) A nonminor who attained 18 years of age while was subject to an order for foster care placement described in Section 11402 at any time after he or she attained 12 years of age and who has not attained 21 years of age, and for whom dependency, delinquency, or transition jurisdiction has been terminated, and who is still under the general jurisdiction of the court.

(2) A nonminor who is over 18 years of age and, while a minor, was a dependent child or ward of the juvenile court when the guardianship was established pursuant to Section 360 or 366.26, or subdivision (d), of Section 728 and the juvenile court dependency or wardship was dismissed following the establishment of the guardianship.

(3) A nonminor who was subject to an order for foster care placement any time after reaching the age of 14, and was adjudged a ward pursuant to Section 725, and the last custody order of the court did not return the child to the physical custody of his or her parent or legal guardian.

(4) A nonminor who was subject to an order for foster care placement, and was adjudged a ward pursuant to Section 725, and was a ward at 18 years, and was in secure confinement, and has not reached the age of 21 years.

(ab) "Runaway and homeless youth shelter" means a type of group home, as defined in paragraph (14) of subdivision (a) of Section 1502 of the Health and Safety Code, that is not an eligible placement option under Sections 319, 361.2, 450, and 727, and that is not eligible for AFDC-FC funding pursuant to subdivision (c) of Section 11402 or Section 11462.

(ac) "Transition dependent" is a minor between 17 years and five months and 18 years of age who is subject to the court's transition jurisdiction under Section 450.

SEC. 7. Section 11401 of the Welfare and Institutions Code is amended to read:

11401. Aid in the form of AFDC-FC shall be provided under this chapter on behalf of any child under 18 years of age and to any nonminor dependent who meets the conditions of any of the following subdivisions:

(a) The child has been relinquished, for purposes of adoption, to a licensed adoption agency, or the department, or the parental rights of either or both of his or her parents have been terminated after an action under the Family Code has been brought by a licensed adoption agency or the department, provided that the licensed adoption agency or the department, if responsible for

placement and care, provides to those children all services as required by the department to children in foster care.

(b) The child has been removed from the physical custody of his or her parent, relative, or guardian as a result of a voluntary placement agreement or a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child was placed in foster care, reasonable efforts were made, consistent with Chapter 5 (commencing with Section 16500) of Part 4, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, and any of the following applies:

(1) The child has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300.

(2) The child has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602 or the nonminor is under the transition jurisdiction of the juvenile court pursuant to Section 450.

(3) The child has been detained under a court order, pursuant to Section 319 or 636, that remains in effect.

(4) The child's or nonminor's dependency jurisdiction, or transition jurisdiction pursuant to Section 450, has resumed pursuant to Section 387, or subdivision (a) or (e) of Section 388.

(c) The child has been voluntarily placed by his or her parent or guardian pursuant to Section 11401.1.

(d) The child is living in the home of a nonrelated legal guardian.

(e) The child is a nonminor dependent who is placed pursuant to a mutual agreement as set forth in subdivision (u) of Section 11400, under the placement and care responsibility of the county child welfare services department, an Indian tribe that entered into an agreement pursuant to Section 10553.1, or the county probation department, or the child is a nonminor dependent reentering foster care placement pursuant to a voluntary agreement, as set forth in subdivision (z) of Section 11400.

(f) The child has been placed in foster care under the federal Indian Child Welfare Act. Sections 11402, 11404, and 11405 shall not be construed as limiting payments to Indian children, as defined in the federal Indian Child Welfare Act, placed in accordance with that act.

(g) To be eligible for federal financial participation, the conditions described in paragraph (1), (2), (3), or (4) shall be satisfied:

(1) (A) The child meets the conditions of subdivision (b).

(B) The child has been deprived of parental support or care for any of the reasons set forth in Section 11250.

(C) The child has been removed from the home of a relative as defined in Section 233.90(c)(1) of Title 45 of the Code of Federal Regulations, as amended.

(D) The requirements of Sections 671 and 672 of Title 42 of the United States Code, as amended, have been met.

(2) (A) The child meets the requirements of subdivision (h).

(B) The requirements of Sections 671 and 672 of Title 42 of the United States Code, as amended, have been met.

(C) This paragraph shall be implemented only if federal financial participation is available for the children described in this paragraph.

(3) (A) The child has been removed from the custody of his or her parent, relative, or guardian as a result of a voluntary placement agreement or a judicial determination that continuance in the home would be contrary to the child's welfare and that, if the child was placed in foster care, reasonable efforts were made, consistent with Chapter 5 (commencing with Section 16500) of Part 4, to prevent or eliminate the need for removal of the child from his or her home and to make it possible for the child to return to his or her home, or the child is a nonminor dependent who satisfies the removal criteria in Section 472(a)(2)(A)(i) of the federal Social Security Act (42 U.S.C. Sec. 672 (a)(2)(A)(i)) and agrees to the placement and care responsibility of the placing agency by signing the voluntary reentry agreement, as set forth in subdivision (z) of Section 11400, and any of the following applies:

(i) The child has been adjudged a dependent child of the court on the grounds that he or she is a person described by Section 300.

(ii) The child has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602 or the nonminor is under the transition jurisdiction of the juvenile court, pursuant to Section 450.

(iii) The child has been detained under a court order, pursuant to Section 319 or 636, that remains in effect.

(iv) The child's or nonminor's dependency jurisdiction, or transition jurisdiction pursuant to Section 450, has resumed pursuant to Section 387, or subdivision (a) or (e) of Section 388.

(B) The child has been placed in an eligible foster care placement, as set forth in Section 11402.

(C) The requirements of Sections 671 and 672 of Title 42 of the United States Code have been satisfied.

(D) This paragraph shall be implemented only if federal financial participation is available for the children described in this paragraph.

(4) With respect to a nonminor dependent, in addition to meeting the conditions specified in paragraph (1), the requirements of Section 675(8)(B) of Title 42 of the United States Code have been satisfied. With respect to a former nonminor dependent who reenters foster care placement by signing the voluntary reentry agreement, as set forth in subdivision (z) of Section 11400, the requirements for AFDC-FC eligibility of Section 672(a)(3)(A) of Title 42 of the United States Code are satisfied based on the nonminor's status as a child-only case, without regard to the

parents, legal guardians, or others in the assistance unit in the home from which the nonminor was originally removed.

(h) The child meets all of the following conditions:

(1) The child has been adjudged to be a dependent child or ward of the court on the grounds that he or she is a person described in Section 300, 601, or 602.

(2) The child's parent also has been adjudged to be a dependent child or nonminor dependent of the court on the grounds that he or she is a person described by Section 300, 450, 601, or 602 and is receiving benefits under this chapter.

(3) The child is placed in the same licensed or approved foster care facility in which his or her parent is placed and the child's parent is receiving reunification services with respect to that child.

SEC. 8. Section 11403 of the Welfare and Institutions Code is amended to read:

11403. (a) It is the intent of the Legislature to exercise the option afforded states under Section 475(8) (42 U.S.C. Sec. 675(8)), and Section 473(a)(4) (42 U.S.C. Sec. 673(a)(4)) of the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351), to receive federal financial participation for nonminor dependents of the juvenile court who satisfy the conditions of subdivision (b), consistent with their transitional independent living case plan. These nonminor dependents shall be eligible to receive support up to 21 years of age, consistent with their transitional independent living case plan. It is the intent of the Legislature both at the time of initial determination of the nonminor dependent's eligibility and throughout the time the nonminor dependent is eligible for aid pursuant to this section, that the social worker or probation officer or Indian tribal placing entity and the nonminor dependent shall work together to ensure the nonminor dependent's ongoing eligibility. All case planning shall be a collaborative effort between the nonminor dependent and the social worker, probation officer, or Indian tribe, with the nonminor dependent assuming increasing levels of responsibility and independence.

(b) A nonminor dependent receiving aid pursuant to this chapter, who satisfies the age criteria set forth in subdivision (a), shall meet the legal authority for placement and care by being under a foster care placement order by the juvenile court, or the voluntary reentry agreement as set forth in subdivision (z) of Section 11400, and is otherwise eligible for AFDC-FC payments pursuant to Section 11401. A nonminor who satisfies the age criteria set forth in subdivision (a), and who is otherwise eligible, shall continue to receive CalWORKs payments pursuant to Section 11253 or, as a nonminor former dependent or ward, aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385) or adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4. **A** Effective January 1, 2012, a nonminor former dependent child or ward of the juvenile court who is receiving AFDC-FC benefits pursuant to Section 11405 and who satisfies the criteria set forth in subdivision (a) shall be eligible to continue to receive aid as long as the nonminor is otherwise eligible for AFDC-FC benefits under this subdivision. This subdivision shall apply when one or more of the following conditions exist:

(1) The nonminor is completing secondary education or a program leading to an equivalent credential.

(2) The nonminor is enrolled in an institution which provides postsecondary or vocational education.

(3) The nonminor is participating in a program or activity designed to promote, or remove barriers to employment.

(4) The nonminor is employed for at least 80 hours per month.

(5) The nonminor is incapable of doing any of the activities described in subparagraphs (1) to (4), inclusive, due to a medical condition, and that incapability is supported by regularly updated information in the case plan of the nonminor. The requirement to update the case plan under this section shall not apply to nonminor former dependents or wards in receipt of Kin-GAP program or Adoption Assistance Program payments.

(c) The county child welfare or probation department, Indian tribe, consortium of tribes, or tribal organization that has entered into an agreement pursuant to Section 10553.1, shall work together with a nonminor dependent who is in foster care on his or her 18th birthday and thereafter or a nonminor former dependent receiving aid pursuant to Section 11405, to satisfy one or more of the conditions described in paragraphs (1) to (5), inclusive, of subdivision (b) and shall certify the nonminor's applicable condition or conditions in the nonminor's six-month transitional independent living case plan update, and provide the certification to the eligibility worker and to the court at each six-month case plan review hearing for the nonminor dependent. Relative guardians who receive Kin-GAP payments and adoptive parents who receive adoption assistance payments shall be responsible for reporting to the county welfare agency that the nonminor does not satisfy at least one of the conditions described in subdivision (b). The social worker, probation officer, or tribal entity shall verify and obtain assurances that the nonminor dependent continues to satisfy at least one of the conditions in paragraphs (1) to (5), inclusive, of subdivision (b) at each six-month transitional independent living case plan update. The six-month case plan update shall certify the nonminor's eligibility pursuant to subdivision (b) for the next six-month period. During the six-month certification period, the payee and nonminor shall report any change in placement or other relevant changes in circumstances that may affect payment. The nonminor dependent, or nonminor former dependent receiving aid pursuant to subdivision (e) of Section 11405, shall be informed of all due process requirements, in accordance with state and federal law, prior to an involuntary termination of aid, and shall simultaneously be provided with a written explanation of how to exercise his or her due process rights and obtain referrals to legal assistance. Any notices of action regarding eligibility shall be sent to the nonminor dependent or former dependent, his or her counsel, as applicable, and the placing worker, in addition to any other payee. Payments of aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4, or aid pursuant to subdivision (e) of Section 11405 that are made on behalf of a nonminor former dependent shall terminate subject to the terms of the agreements. Subject to federal approval of amendments to the state plan, aid payments may be suspended and resumed based on changes of circumstances that affect eligibility. Nonminor former dependents, as identified in paragraph (2) of subdivision (aa) of Section 11400, are not eligible for reentry under subdivision (e) of Section 388 as nonminor dependents under the jurisdiction of the juvenile court, unless (1) the nonminor former dependent was receiving aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) or Article 4.7 (commencing with Section 11385), or the nonminor former dependent was receiving aid pursuant to subdivision (e) of Section 11405, or

the nonminor was receiving adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 3 and (2) the nonminor's former guardian or adoptive parent dies, or no longer provides ongoing support to, and no longer receive aid on behalf of, the nonminor after the nonminor turns 18 years of age but before the nonminor turns 21 years of age. Nonminor former dependents requesting the resumption of AFDC-FC payments pursuant to subdivision (e) of Section 11405 shall complete the applicable portions of the voluntary reentry agreement, as described in subdivision (z) of Section 11400.

(d) A nonminor dependent may receive all of the payment directly provided that the nonminor is living independently in a supervised placement, as described in subdivision (w) of Section 11400, and that both the youth and the agency responsible for the foster care placement have signed a mutual agreement, as defined in subdivision (u) of Section 11400, if the youth is capable of making an informed agreement, that documents the continued need for supervised out-of-home placement, and the nonminor's and social worker's or probation officer's agreement to work together to facilitate implementation of the mutually developed supervised placement agreement and transitional independent living case plan.

(e) Eligibility for aid under this section shall not terminate until the nonminor dependent attains the age criteria, as set forth in subdivision (a), but aid may be suspended when the nonminor dependent no longer resides in an eligible facility, as described in Section 11402, or is otherwise not eligible for AFDC-FC benefits under Section 11401, or terminated at the request of the nonminor, or after a court terminates dependency jurisdiction pursuant to Section 391, delinquency jurisdiction pursuant to Section 607.2, or transition jurisdiction pursuant to Section 452. AFDC-FC benefits to nonminor dependents, may be resumed at the request of the nonminor by completing a voluntary reentry agreement pursuant to subdivision (z) of Section 11400, before or after the filing of a petition filed pursuant to subdivision (e) of Section 388 after a court terminates dependency or transitional jurisdiction pursuant to Section 391, or delinquency jurisdiction pursuant to Section 607.2. The county welfare or probation department or Indian tribal entity that has entered into an agreement pursuant to Section 10553.1 shall complete the voluntary reentry agreement with the nonminor who agrees to satisfy the criteria of the agreement, as described in subdivision (z) of Section 11400. The county welfare department or tribal entity shall establish a new child-only Title IV-E eligibility determination based on the nonminor's completion of the voluntary reentry agreement pursuant to Section 11401. The beginning date of aid for either federal or state AFDC-FC for a reentering nonminor who is placed in foster care is the date the voluntary reentry agreement is signed or the nonminor is placed, whichever is later. The county welfare department, county probation department, or tribal entity shall provide a nonminor dependent who wishes to continue receiving aid with the assistance necessary to meet and maintain eligibility.

(f) (1) The county having jurisdiction of the nonminor dependent shall remain the county of payment under this section regardless of the youth's physical residence. Nonminor former dependents receiving aid pursuant to subdivision (e) of Section 11405 shall be paid by their county of residence. Counties may develop courtesy supervision agreements to provide case management and independent living services by the county of residence pursuant to the nonminor dependent's transitional independent living case plan. Placements made out of state are subject to the applicable requirements of the Interstate Compact on Placement of Children, pursuant to Part 5 (commencing with Section 7900) of Division 12 of the Family Code.

(2) The county welfare department, county probation department, or tribal entity shall notify all foster youth who attain 16 years of age and are under the jurisdiction of that county or tribe,

including those receiving Kin-GAP, and AAP, of the existence of the aid prescribed by this section.

(3) The department shall seek any waiver to amend its Title IV-E State Plan with the Secretary of the United States Department of Health and Human Services necessary to implement this section.

(g) (1) Subject to paragraph (3), a county shall pay the nonfederal share of the cost of extending aid pursuant to this section to eligible nonminor dependents who have reached 18 years of age and who are under the jurisdiction of the county, including AFDC-FC payments pursuant to Section 11401, aid pursuant to Kin-GAP under Article 4.7 (commencing with Section 11385), adoption assistance payments as specified in Chapter 2.1 (commencing with Section 16115) of Part 4, and aid pursuant to Section 11405 for nonminor dependents who are residing in the county as provided in paragraph (1) of subdivision (f). A county shall contribute to the CalWORKs payments pursuant to Section 11253 and aid pursuant to Kin-GAP under Article 4.5 (commencing with Section 11360) at the statutory sharing ratios in effect on January 1, 2012.

(2) Subject to paragraph (3), a county shall pay the nonfederal share of the cost of providing permanent placement services pursuant to subdivision (c) of Section 16508 and administering the Aid to Families with Dependent Children Foster Care program pursuant to Section 15204.9. For purposes of budgeting, the department shall use a standard for the permanent placement services that is equal to the midpoint between the budgeting standards for family maintenance services and family reunification services.

(3) (A) (i) Notwithstanding any other law, a county's required total contribution pursuant to paragraphs (1) and (2) shall not exceed the amount of savings in Kin-GAP assistance grant expenditures realized by the county from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385), and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011, plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section.

(ii) A county, at its own discretion, may expend additional funds beyond the amounts identified in clause (i). These additional amounts shall not be included in any cost and savings calculations or comparisons performed pursuant to this section.

(B) Funding and expenditures for programs and activities under this section shall be in accordance with the requirements provided in Sections 30025 and 30026.5 of the Government Code. In addition, the following are available to the counties for the purpose of funding costs pursuant to this section:

(i) The savings in Kin-GAP assistance grant expenditures realized from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385).

(ii) The savings realized from the change in federal funding for adoption assistance resulting from the enactment of Public Law 110-351 and consistent with subdivision (d) of Section 16118.

(4) (A) The limit on the county's total contribution pursuant to paragraph (3) shall be assessed by the State Department of Social Services, in conjunction with the California State Association of

Counties, in 2015–16, to determine if it shall be removed. The assessment of the need for the limit shall be based on a determination on a statewide basis of whether the actual county costs of providing extended care pursuant to this section are fully funded by the amount of savings in Kin-GAP assistance grant expenditures realized by the counties from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385) and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011 plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section.

(B) If the assessment pursuant to subparagraph (A) shows that the statewide total costs of extending aid pursuant to this section are fully funded by the amount of savings in Kin-GAP assistance grant expenditures realized by the counties from the receipt of federal funds due to the implementation of Article 4.7 (commencing with Section 11385) and the amount of funding specifically included in the Protective Services Subaccount within the Support Services Account within the Local Revenue Fund 2011 plus any associated growth funding from the Support Services Growth Subaccount within the Sales and Use Tax Growth Account to pay the costs of extending aid pursuant to this section, the Department of Finance shall certify that fact, in writing, and shall post the certification on its Internet Web site, at which time subparagraph (A) of paragraph (3) shall no longer be implemented.

(h) It is the intent of the Legislature that no county currently participating in the Child Welfare Demonstration Capped Allocation Project be adversely impacted by the department's exercise of its option to extend foster care benefits pursuant to Section 673(a)(4) and Section 675(8) of Title 42 of the United States Code in the federal Social Security Act, as contained in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Public Law 110-351). Therefore, the department shall negotiate with the United States Department of Health and Human Services on behalf of those counties that are currently participating in the demonstration project to ensure that those counties receive reimbursement for these new programs outside of the provisions of those counties' waiver under Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670 et seq.).

(i) The department, on or before July 1, 2013, shall develop regulations to implement this section in consultation with concerned stakeholders, including, but not limited to, representatives of the Legislature, the County Welfare Directors Association, the Chief Probation Officers of California, the Judicial Council, representatives of Indian tribes, the California Youth Connection, former foster youth, child advocacy organizations, labor organizations, juvenile justice advocacy organizations, foster caregiver organizations, and researchers. In the development of these regulations, the department shall consider its Manual of Policy and Procedures, Division 30, Chapter 30-912, 913, 916, and 917, as guidelines for developing regulations that are appropriate for young adults who can exercise incremental responsibility concurrently with their growth and development. The department, in its consultation with stakeholders, shall take into consideration the impact to the Automated Child Welfare Services Case Management Services (CWS-CMS) and required modifications needed to accommodate eligibility determination under this section, benefit issuance, case management across counties, and recognition of the legal status of nonminor dependents as adults, as well as changes to data tracking and reporting requirements as required by the Child Welfare System Improvement and Accountability Act as specified in Section 10601.2, and federal outcome measures as required by the federal John H. Chafee Foster Care Independence Program (42 U.S.C. Sec. 677(f)). In addition, the department, in its consultation with stakeholders, shall define the supervised

independent living setting which shall include, but not be limited to, apartment living, room and board arrangements, college or university dormitories, and shared roommate settings, and define how those settings meet health and safety standards suitable for nonminors. The department, in its consultation with stakeholders, shall define the six-month certification of the conditions of eligibility pursuant to subdivision (b) to be consistent with the flexibility provided by federal policy guidance, to ensure that there are ample supports for a nonminor to achieve the goals of his or her transition independent living case plan. The department, in its consultation with stakeholders, shall ensure that notices of action and other forms created to inform the nonminor of due process rights and how to access them shall be developed, using language consistent with the special needs of the nonminor dependent population.

(j) Notwithstanding the Administrative Procedure Act, Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department shall prepare for implementation of the applicable provisions of this section by publishing, after consultation with the stakeholders listed in subdivision (i), all-county letters or similar instructions from the director by October 1, 2011, to be effective January 1, 2012. Emergency regulations to implement the applicable provisions of this act may be adopted by the director in accordance with the Administrative Procedure Act. The initial adoption of the emergency regulations and one readoption of the emergency regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the first readoption of those emergency regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and shall remain in effect for no more than 180 days.

SEC. 9. Section 11405 of the Welfare and Institutions Code is amended to read:

11405. (a) Except for nonminors described in paragraph (2) of subdivision (e), AFDC-FC benefits shall be paid to an otherwise eligible child living with a nonrelated legal guardian, provided that the legal guardian cooperates with the county welfare department in all of the following:

- (1) Developing a written assessment of the child's needs.
- (2) Updating the assessment no less frequently than once every six months.
- (3) Carrying out the case plan developed by the county.

(b) Except for nonminors described in paragraph (2) of subdivision (e), when AFDC-FC is applied for on behalf of a child living with a nonrelated legal guardian the county welfare department shall do all of the following:

- (1) Develop a written assessment of the child's needs.
- (2) Update those assessments no less frequently than once every six months.
- (3) Develop a case plan that specifies how the problems identified in the assessment are to be addressed.

(4) Make visits to the child as often as appropriate, but in no event less often than once every six months.

(c) Where the child is a parent and has a child living with him or her in the same eligible facility, the assessment required by paragraph (1) of subdivision (a) shall include the needs of his or her child.

(d) Nonrelated legal guardians of eligible children who are in receipt of AFDC-FC payments described in this section shall be exempt from the requirement to register with the Statewide Registry of Private Professional Guardians pursuant to Sections 2850 and 2851 of the Probate Code.

(e) (1) A nonminor youth whose nonrelated guardianship was ordered in juvenile court pursuant to Section 360 or 366.26, and whose dependency was dismissed, shall remain eligible for AFDC-FC benefits until the youth attains 21 years of age, provided that the youth enters into a mutual agreement with the agency responsible for his or her guardianship, and the youth is meeting the conditions of eligibility, as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(2) A nonminor former dependent or ward as defined in paragraph (2) of subdivision (aa) of Section 11400 shall be eligible for benefits under this section until the youth attains 21 years of age if all of the following conditions are met:

(A) The nonminor former dependent or ward attained 18 years of age while in receipt of Kin-GAP benefits pursuant to Article 4.7 (commencing with Section 11385).

(B) The nonminor's relationship to the kinship guardian is defined in paragraph (2), (3), or (4) of subdivision (c) of Section 11391.

(C) The nonminor who was under 16 years of age at the time the Kin-GAP negotiated agreement payments commenced.

(D) The guardian continues to be responsible for the support of the nonminor.

(E) The nonminor otherwise is meeting the conditions of eligibility, as described in paragraphs (1) to (5), inclusive, of subdivision (b) of Section 11403.

(f) A child whose nonrelated guardianship was ordered in probate court pursuant Article 2 (commencing with Section 1510) of Chapter 1 of Part 2 of Division 4 of the Probate Code, who is attending high school or the equivalent level of vocational or technical training on a full-time basis, or who is in the process of pursuing a high school equivalency certificate prior to his or her 18th birthday may continue to receive aid following his or her 18th birthday as long as the child continues to reside in the guardian's home, remains otherwise eligible for AFDC-FC benefits and continues to attend high school or the equivalent level of vocational or technical training on a full-time basis, or continues to pursue a high school equivalency certificate, and the child may reasonably be expected to complete the educational or training program or to receive a high school equivalency certificate, before his or her 19th birthday. Aid shall be provided to an individual pursuant to this section provided that both the individual and the agency responsible for the foster care placement have signed a mutual agreement, if the individual is capable of making an informed agreement, documenting the continued need for out-of-home placement.

(g) (1) For cases in which a guardianship was established on or before June 30, 2011, or the date specified in a final order, for which the time for appeal has passed, issued by a court of competent jurisdiction in California State Foster Parent Association, et al. v. William Lightbourne, et al. (U.S. Dist. Ct. No. C 07-05086 WHA), whichever is earlier, the AFDC-FC payment described in this section shall be the foster family home rate structure in effect prior to the effective date specified in the order described in this paragraph.

(2) For cases in which guardianship has been established on or after July 1, 2011, or the date specified in the order described in paragraph (1), whichever is earlier, the AFDC-FC payments described in this section shall be the basic foster family home rate set forth in paragraph (1) of subdivision (g) of Section 11461.

(3) The AFDC-FC payments identified in this subdivision shall be adjusted annually by the percentage change in the California Necessities Index rate as set forth in paragraph (2) of subdivision (g) of Section 11461.

(h) In addition to the AFDC-FC rate paid, all of the following also shall be paid:

(1) A specialized care increment, if applicable, as set forth in subdivision (e) of Section 11461.

(2) A clothing allowance, as set forth in subdivision (f) of Section 11461.

(3) For a child eligible for an AFDC-FC payment who is a teen parent, the rate shall include the two hundred dollar (\$200) monthly payment made to the relative caregiver in a whole family foster home pursuant to paragraph (3) of subdivision (d) of Section 11465.

SEC. 10. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Introduced by Senator MitchellDecember 1, 2014

An act to add Section 11270.5 to, and to repeal Section 11450.04 of, the Welfare and Institutions Code, relating to CalWORKs.

LEGISLATIVE COUNSEL'S DIGEST

SB 23, as introduced, Mitchell. CalWORKs: eligibility.

Existing law requires each county to provide cash assistance and other social services to needy families through the California Work Opportunity and Responsibility to Kids (CalWORKs) program using federal Temporary Assistance to Needy Families (TANF) block grant program, state, and county funds. Under existing law, for purposes of determining a family's maximum aid payment under the CalWORKs program, the number of needy persons in the same family is not increased for any child born into a family that has received aid under the CalWORKs program continuously for the 10 months prior to the birth of the child, with specified exceptions.

This bill would repeal that exclusion for purposes of determining the family's maximum aid payment and would expressly prohibit the denial of aid, or the denial of an increase in the maximum aid payment, if a child, on whose behalf aid or an increase in aid is being requested, was born into an applicant's or recipient's family while the applicant's or recipient's family was receiving aid under the CalWORKs program. The bill would specify that an applicant or recipient is not entitled to an increased benefit payment for any month prior to January 1, 2016, as a result of the repeal of that exclusion or the enactment of that express prohibition. The bill would also prohibit the department from conditioning an applicant's or recipient's eligibility for aid on the applicant's or recipient's disclosure of information regarding rape,

incest, or contraception, as specified, or the applicant's or recipient's use of contraception.

Existing law continuously appropriates moneys from the General Fund to defray a portion of county aid grant costs under the CalWORKs program.

This bill would declare that no appropriation would be made for purposes of the bill.

To the extent that this bill affects eligibility under the CalWORKs program, the bill would create a state-mandated local program.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Scientific research has demonstrated that young children
4 living in deep poverty experience lifelong cognitive impairments
5 limiting their ability to be prepared for, and succeed in, school.

6 (b) Academic research has documented an increase in missed
7 days of school and an increase in visits to hospital emergency
8 rooms by children who live in deep poverty.

9 (c) The Maximum Family Grant rule was adopted to limit the
10 length of time a family could receive basic needs assistance, and
11 to limit the amount of assistance a family could receive, through
12 the Aid to Families with Dependent Children (AFDC) program
13 before the implementation of welfare reform. At the time the rule
14 was adopted, there was no limit on the length of time a family
15 could receive aid, no work requirements, and the benefits provided
16 were approximately 80 percent of the federal poverty level.

17 (d) Since the implementation of the Maximum Family Grant
18 rule, AFDC has been replaced with the California Work
19 Opportunity and Responsibility to Kids Act (CalWORKs), which

1 imposes lifetime limits on aid and requires adult CalWORKs
2 participants to meet work requirements in order to receive a
3 maximum benefit of approximately 40 percent of the federal
4 poverty level.

5 (e) The Maximum Family Grant rule makes poor children
6 poorer, reducing the income of families with infants to below 30
7 percent of the federal poverty level.

8 (f) This act is necessary to protect infants born to families
9 receiving CalWORKs from experiencing lifelong cognitive
10 impairments due to the toxic stress of deep poverty and to ready
11 those children for participation in California's public school
12 system.

13 (g) This act is also necessary to protect the reproductive and
14 privacy rights of all applicants for, and recipients of, aid under
15 CalWORKs.

16 SEC. 2. Section 11270.5 is added to the Welfare and
17 Institutions Code, immediately following Section 11270, to read:

18 11270.5. (a) An applicant for, or recipient of, aid under this
19 chapter shall not be required, as a condition of eligibility, to do
20 any of the following:

21 (1) Divulge that any member of the assistance unit is a victim
22 of rape or incest.

23 (2) Share confidential medical records related to any member
24 of the assistance unit's rape or incest.

25 (3) Use contraception, choose a particular method of
26 contraception, or divulge the method of contraception that any
27 member of the assistance unit uses.

28 (b) An applicant for, or recipient of, aid under this chapter shall
29 not be denied aid, nor denied an increase in the maximum aid
30 payment, for a child born into the applicant's or recipient's family
31 during a period in which the applicant's or recipient's family was
32 receiving aid under this chapter.

33 (c) An applicant for, or recipient of, aid under this chapter shall
34 not be entitled to an increased benefit payment for any month prior
35 to January 1, 2016, as a result of the repeal of former Section
36 11450.04 (as added by Section 1 of Chapter 196 of the Statutes of
37 1994) or the enactment of this section.

38 SEC. 3. Section 11450.04 of the Welfare and Institutions Code
39 is repealed.

1 11450.04. (a) For purposes of determining the maximum aid
2 payment specified in subdivision (a) of Section 11450 and for no
3 other purpose, the number of needy persons in the same family
4 shall not be increased for any child born into a family that has
5 received aid under this chapter continuously for the 10 months
6 prior to the birth of the child. For purposes of this section, aid shall
7 be considered continuous unless the family does not receive aid
8 during two consecutive months. This subdivision shall not apply
9 to applicants for, or recipients of, aid unless notification is provided
10 pursuant to this section.

11 (b) This section shall not apply with respect to any of the
12 following children:

13 (1) Any child who was conceived as a result of an act of rape,
14 as defined in Sections 261 and 262 of the Penal Code, if the rape
15 was reported to a law enforcement agency, medical or mental
16 health professional or social services agency prior to, or within
17 three months after, the birth of the child.

18 (2) Any child who was conceived as a result of an incestuous
19 relationship if the relationship was reported to a medical or mental
20 health professional or a law enforcement agency or social services
21 agency prior to, or within three months after, the birth of the child,
22 or if paternity has been established.

23 (3) Any child who was conceived as a result of contraceptive
24 failure if the parent was using an intrauterine device, a Norplant,
25 or the sterilization of either parent.

26 (e) This section shall not apply to any child born on or before
27 November 1, 1995.

28 (d) (1) This section shall not apply to any child to whom it
29 would otherwise apply if the family has not received aid for 24
30 consecutive months while the child was living with the family.

31 (2) This section shall not apply to any child conceived when
32 either parent was a nonneedy caretaker relative.

33 (3) This section shall not apply to any child who is no longer
34 living in the same home with either parent.

35 (e) One hundred percent of any child support payment received
36 for a child born into the family, but for whom the maximum aid
37 payment is not increased pursuant to this section, shall be paid to
38 the assistance unit. Any such child support payment shall not be
39 considered as income to the family for the purpose of calculating
40 the amount of aid for which the family is eligible under this article.

1 ~~(f) Commencing January 1, 1995, each county welfare~~
2 ~~department shall notify applicants for assistance under this chapter,~~
3 ~~in writing, of the provisions of this section. The notification shall~~
4 ~~also be provided to recipients of aid under this chapter, in writing,~~
5 ~~at the time of recertification, or sooner. The notification required~~
6 ~~by this section shall set forth the provisions of this section and~~
7 ~~shall state explicitly the impact these provisions would have on~~
8 ~~the future aid to the assistance unit. This section shall not apply~~
9 ~~to any recipient's child earlier than 12 months after the mailing of~~
10 ~~an informational notice as required by this subdivision.~~

11 ~~(g) (1) The department shall seek all appropriate federal waivers~~
12 ~~for the implementation of this section.~~

13 ~~(2) The department shall implement this section commencing~~
14 ~~on the date the Director of Social Services executes a declaration,~~
15 ~~that shall be retained by the director, stating that the administrative~~
16 ~~actions required by paragraph (1) as a condition of implementation~~
17 ~~of this section have been taken by the United States Secretary of~~
18 ~~Health and Human Services.~~

19 ~~(h) Subdivisions (a) to (g), inclusive, shall become operative~~
20 ~~on January 1, 1995.~~

21 SEC. 4. No appropriation pursuant to Section 15200 of the
22 Welfare and Institutions Code shall be made for the purposes of
23 this act.

24 SEC. 5. If the Commission on State Mandates determines that
25 this act contains costs mandated by the state, reimbursement to
26 local agencies and school districts for those costs shall be made
27 pursuant to Part 7 (commencing with Section 17500) of Division
28 4 of Title 2 of the Government Code.

SENATE COMMITTEE ON HUMAN SERVICES

Senator McGuire, Chair

2015 - 2016 Regular

Bill No: SB 23
Author: Mitchell
Version: December 1, 2014
Urgency: No
Consultant: Mareva Brown
Hearing Date: March 24, 2015
Fiscal: Yes

Subject: CalWORKs: eligibility

SUMMARY

This bill would repeal the state's Maximum Family Grant rule, which prohibits aid to a child born into a family receiving CalWORKs benefits if the child was conceived after the family began receiving aid. It would prohibit the denial of aid for that child, and would expressly prohibit the state from requiring an applicant or recipient to disclose whether they were a victim of incest or rape, their method of contraception or whether a family used contraception, as specified.

ABSTRACT

Existing law:

- 1) Establishes the federal Temporary Assistance for Needy Families (TANF) program, which permits states to implement the program under a state plan. (*42 USC § 601 et seq.*)
- 2) Establishes in state law the CalWORKs program to provide cash assistance and other social services for low-income families through the TANF program. Under CalWORKs, each county provides assistance through a combination of state, county and federal TANF funds. (*WIC 10530*)
- 3) Establishes guidelines for determining a family's maximum aid payment, including all eligible family members, as well as the level of aid to be paid, as specified. (*WIC 11450*)
- 4) Prohibits an increase in aid based on an increase in the number of needy persons in a family due to the birth of an additional child, if the family has received aid continuously for the 10 months prior to the birth of the child, as specified. (*WIC 11450.04 (a)*)
- 5) Exempts this prohibition in the following circumstances:
 - a. Any child who was conceived as a result of an act of rape, as defined in Sections 261 and 262 of the Penal Code, if the rape was reported to a law enforcement agency, medical or mental health professional or social services agency prior to, or within three months after, the birth of the child.
 - b. Any child who was conceived as a result of an incestuous relationship if the relationship was reported to a medical or mental health professional or a law

enforcement agency or social services agency prior to, or within three months after, the birth of the child or if paternity has been established.

- c. Any child who was conceived as a result of contraceptive failure if the parent was using an intrauterine device, a Norplant, or the sterilization of either parent.
 - d. If the family does not receive aid for two consecutive months during the 10-months prior to the child's birth.
 - e. Children born on or before November 1, 1995.
 - f. Any child who would qualify for the maximum family grant cap if the family did not receive aid for 24 consecutive months while the child was living with the family.
 - g. Any child conceived when either parent was a non-needy caretaker relative.
 - h. Any child who is no longer living in the same home with either parent. (*WIC 11450.04 (b) et seq.*)
- 6) Requires 100 percent of any child support payment received for a child who is born under the maximum family grant (MFG) cap – and therefore is not the recipient of aid – to be paid to the family. Additionally, prohibits any such child support payment from being counted as income in calculating CalWORKs benefits. (*WIC 11450.04 (e)*)
- 7) Requires each county welfare department to notify recipients of the MFG provisions in writing at the time of application and recertification, as specified. (*WIC 11450.04 (f)*)
- 8) Requires the state Department of Social Services (CDSS) to seek appropriate federal waivers to implement the MFG limit and associated conditions, as specified, and directs DSS to implement the rule on the date the waiver is received by declaration of the department's director. (*WIC 11450.04 (g)*)

This bill:

- 1) Makes legislative findings and declarations that:
 - a. Scientific research has demonstrated that young children living in deep poverty experience lifelong cognitive impairments limiting their ability to be prepared for and succeed in school.
 - b. Academic research has documented an increase in missed days of school and in visits to hospital emergency rooms by children who live in deep poverty.
 - c. The Maximum Family Grant (MFG) rule was adopted to limit the amount of time a family could receive assistance and to limit the amount of assistance received. The rule was passed before implementation of welfare reform. At the time the rule was adopted, there was no limit on the length of time a family could receive aid, no work requirements and the benefits provided were approximately 80 percent of the federal poverty level (FPL).

- d. Since the rule's implementation, lifetime limits on aid and work requirements have been enacted in order to receive a maximum benefit of approximately 40 percent of the FPL.
 - e. The Maximum Family Grant rule makes poor children poorer, reducing the income of families with infants to less than 30 percent of the FPL.
 - f. This legislation is necessary to protect infants born to families receiving CalWORKs from experiencing lifelong cognitive impairments due to the toxic stress of deep poverty and to ready those children for participation in California's public school system.
 - g. This legislation is necessary to protect the reproductive and privacy rights of all applicants for, and recipients of, aid under the CalWORKs program.
- 2) Prohibits an applicant for, or recipient of, CalWORKs aid from being required as a condition of eligibility to do any of the following:
 - a. Divulge that any member of the assistance unit is a victim of rape or incest.
 - b. Share confidential medical records related to any member of the assistance unit's rape or incest.
 - c. Use contraception, choose a particular method of contraception, or divulge the method of contraception that any member of the assistance unit uses.
 - 3) Prohibits an applicant for or recipient of CalWORKs benefits from being denied aid, or denied an increase in the maximum aid payment, for a child born into the family during a period in which the family is receiving aid.
 - 4) Specifies that no increased benefit will be paid for any month prior to January 1, 2016, as a result of repealing the prior statute.
 - 5) Repeals WIC 11450.04 which establishes and defines the MFG rule, including exclusions for families in which a mother reports she is a victim of rape or incest or in instances where specified methods of contraception fail.
 - 6) Prohibits appropriation pursuant to WIC 15200 be made for the purposes of this act.

FISCAL IMPACT

This bill has not been analyzed by a fiscal committee, however a Senate Appropriation Committee analysis of SB 899 in 2014, which had identical language, estimated there would be major first year increase in CalWORKs grant costs of about \$205 million (General Fund) based on data from county consortia indicating 13.33 percent of all children in CalWORKs households (131,400 children) were impacted by the MFG rule. The analysis noted that future costs for existing cases could increase by five percent per year (\$10 million increase after the first year). It also estimated potential future costs of \$3.9 million to \$7.8 million (General Fund) for every 2,500 to 5,000 children born into CalWORKs families each year who otherwise would have been

subject to the MFG rule, with annual costs cumulatively increasing in subsequent years as well as other relatively minor costs for automation and offsets for child support payment increases and averted administrative hearings.

BACKGROUND AND DISCUSSION

Purpose of the bill:

The author states that as a result of California's MFG policy, women are forced to make decisions about the types of birth control they can use if they are receiving public benefits. Women who are raped are required to report that sensitive and highly personal fact to their welfare caseworker in order for their babies to receive aid. Some families chose to refuse assistance (and become very poor) for the last three months of a pregnancy rather than lose the grant for the new baby – which is less than \$200 a month – but will help pay for diapers and wipes, according to the author. According to the author, in some extreme cases, women will refuse a doctor's advice about when she should deliver her baby in order to stay off aid for a full two months during her pregnancy, which would allow her to avoid the grant cap. The author states that this kind of desperation is unconscionable to force upon poor women - especially considering the fact that the maximum grant is just enough to put a family at about 40 percent of the federal poverty line.

Poverty and CalWORKs

California has the highest poverty rate in the nation – just under one-quarter of residents are living at or below the federal poverty level (FPL), meaning they earn no more than \$20,090 per year for a family of three. During and after the Great Recession, California saw growing rates of deep childhood poverty – those living below 50 percent of the federal poverty line.

One of California's most essential anti-poverty strategies is the California Work Opportunity and Responsibility to Kids program (CalWORKs), which provides cash assistance to approximately 540,000 families – including more than 1 million children, according to 2014 federal data. Federal funding for CalWORKs comes from the TANF block grant.

Currently, a grant to a family of three in a high-cost California county is \$670 per month but that will increase to \$704 per month in April 2015. The current grant level is 40 percent of the federal poverty threshold (FPL), compared with 81 percent of FPL in 1989 and 55 percent in 1997. In the past five years, California's CalWORKs benefit has undergone significant grant cuts, the elimination of a Cost of Living Adjustment, and a radical restructuring of the Welfare to Work activities, requirements and time limits. Adults in the program have gone from a 60-month lifetime limit on CalWORKs aid to a 48-month limit, with strict requirements on work participation to remain in the program after 24 months.

Maximum Family Grant rule

In 1992, against the backdrop of a debate about whether "intergenerational welfare" was encouraging women to avoid work and have additional children, New Jersey passed the nation's first statewide family cap policy. The policy prohibited additional benefits from being provided to a family for children born after the family began receiving welfare benefits. The policy, which was soon copied by other states, came amid a national conversation that would become the basis for the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA),

which established a 60-month time-limit on benefits in most cases, and emphasized integrating parents into the workforce as part of the program.

Prior to the passage of PRWORA, states needed waivers to implement family cap policies, which required rigorous evaluations of whether the policies achieved their intended goals. *AB 473 (Brulte, Chapter 196, Statutes of 1994)* created California's maximum family grant (MFG) rule as part of budget trailer bill, and required California to obtain a federal waiver to be able to implement the new MFG rule, as the rule was inconsistent with existing federal regulations. California's waiver application was approved in August of 1996, however waiver approval coincided with the passage of PRWORA, which granted states flexibility to implement their own policies without need for a waiver, and California proceeded with the MFG policy without implementing the waiver. California's MFG policy has not been amended since its original enactment.

The MFG legislation was based on the belief that increasing welfare grants for children born into AFDC families may incentivize families to have additional children for the explicit purpose of increasing their monthly grant. By limiting the grant amount, policymakers argued that families would be dissuaded from having additional children. In a heated floor debate in July 1994, in which the bill's author argued that the MFG would "encourage the transition to self-sufficiency," then-Assemblyman John Burton questioned whether this move would achieve the intended goal. "Welfare reform is getting people off of welfare and into a productive role in society with a job, not starving some kid who happens to be born into a family that is on AFDC," Burton argued.

Today, CDSS estimates about 134,900 children per month are subject to the MFG rule. According to a 2013 CDSS sampling of cases, approximately 58 percent of MFG children are under age 6. For a family with an MFG child, the loss in grant in 2015 is between \$116 and \$136 per month, according to CDSS data.

How the MFG rule works

California's MFG rule prohibits CalWORKs aid payments, with certain exceptions, for a child that is born into a family that has been receiving aid for 10 or more continuous months, or for longer than the gestational period of the new baby.

If the family is not receiving aid for two or more months during the 10-month period preceding the birth of the child, the new child becomes eligible for aid in the CalWORKs benefit calculation. Additionally, the MFG rule does not apply if a family returns to aid after a break of two or more years during which the family did not receive any aid, provided that the family still meets eligibility requirements and aided children are still under 18 years old.

Exceptions to the MFG rule

California's statute permits exceptions to the MFG rule for incidents in which a child was born as a result of rape or incest, as long as the mother of the child can document that she reported the crime to law enforcement or a mental health professional or social services agency. The report must have been made prior to the child's birth or within three months after the child was born.

Similarly, state law permits an exception to the MFG rule if the child is born as a result of the failure of one of three types of contraceptives specified in statute:

- An intrauterine device,

- Norplant (which was discontinued for use in the United States in 2002 amid questions about its effectiveness and lawsuits over its side-effects),
- Sterilization of either parent.

Other states

Beginning in the early 1990s, 24 states implemented family cap rules. Today, just 16 states still have family cap rules in place, including California. In 2002 and 2003, Maryland and Illinois repealed their policies and were followed by Wyoming, Nebraska, Oklahoma, Kansas and Maryland.¹

Effect on fertility rates

A number of research studies on the effects of the family cap across the country have concluded that the cap had little to no effect on fertility rates.² However, the U.S. General Accounting Office noted in its 2001 examination of the issue that most states implemented family caps as part of their welfare reforms designed to provide incentives for women to reduce the number of out-of-wedlock births and to encourage self-sufficiency. Specifically, the study noted that “Due to limitations of the existing research, we cannot conclude that family cap policies reduce the incidence of out-of-wedlock births, affect the number of abortions, or change the size of the TANF caseload.” It cited a number of methodological limitations. It did note, however, that the family cap was effective in reducing the amount that states were paying to families who qualified for benefits.³

Effects of deep poverty on children

Numerous studies have correlated the effects of deep childhood poverty with poor health and outcomes including low birth weight, lead poisoning, child mortality and hospitalization. Other studies have drawn correlations between deep poverty and repeating a grade, being a high school dropout and having a learning disability.

A 2011 article in the journal *Developmental Psychology*⁴ estimated that a \$1,000 increase in annual income – less than \$100 per month -- increases young children’s achievement by 5 to 6 percent of a standard deviation. In 2000, researchers noted in the journal *Child Development* that family caps and sanctions appear to disproportionately affect families with very young children who are most susceptible to adverse effects of deep poverty and recommended policy considerations focus on avoiding fiscal sanctions to those families.

“Recent research suggests that economic deprivation is most harmful to a child's chances

¹ Welfare Rules Database, Urban Institute and “*Bringing Families out of Cap’tivity: The Need to Repeal the CalWORKs Maximum Family Grant Rule*,” UC Berkeley School of Law, April 2013

² Dyer, Wendy and Robert W. Fairlie, “Do Family Caps Reduce Out-of-Wedlock Births?” Economic Growth Center, Yale University, December 2003.

³ U.S. General Accounting Office, “More Research Needed on TANF Family Caps and Other Policies for Reducing Out-of-Wedlock Births,” September 2001, p 2-3.

⁴ Duncan, Greg, et al, “Does Money Really Matter? Estimating Impacts of Family Income on Young Children’s Achievement With Data From Random-Assignment Experiments,” *Developmental Psychology*, 2011, Vol. 47, No. 5, 1263–1279

for achievement when it occurs early in the child's life. Economic logic suggests that policies aimed at preventing either economic deprivation itself or its effects are likely to constitute profitable social investments in the twenty-first century.”⁵

Related legislation

SB 899 (Mitchel 2014) was identical to this bill. It was held in the Senate Appropriations committee.

AB 271 (Mitchell, 2013) was substantially similar to this bill. It was held in the Senate Appropriations committee.

AB 22 (Lieber, 2007) was substantially similar to this bill. It was held in the Assembly Appropriations committee.

AB 473 (Brulte, Chapter 196, Statutes of 1994) created California's maximum family grant (MFG) rule and required California to obtain a federal waiver to implement it.

POSITIONS

Support:

CWDA (Co-Sponsor)
UDW/AFSCME Local 3930 (Co-Sponsor)
Western Center on Law and Poverty (Co-Sponsor)
ACT for Women and Girls
ACCESS Women’s Health Justice
Alameda County Board of Supervisors
Alameda County Food Bank
Alliance for Community Transformations
American Association of University Women
American Civil Liberties Union of California
Asian Law Alliance
Asian Pacific Policy & Planning Council
Association of California Commissions for Women (ACCW)
Bay Area Legal Aid
Black Women for Wellness
Business and Professional Women of Nevada County
California Association of Food Banks
California Black Health Network
California Catholic Conference
California Communities United Institute
California Community College CalWORKs Association
California Family Health Council
California Food Policy Advocates
California Hunger Action Coalition

⁵ Ibid

California Immigrant Policy Center
California Labor Federation
California Latinas for Reproductive Justice
California National Organization for Women
California Nurse – Midwives Association
California Pan-Ethnic Health Network
California Partnership
California Reinvestment Coalition
Californians United for a Responsible Budget
California WIC Association
California Women’s Law Center
Cal-Islanders Humanitarian Association
Casa de Esperanza
Center for Law and Social Policy
Center for Reproductive Rights and Justice at the University of California, Berkeley
School of Law
Child Care Law Center
Children Now
Children’s Defense Fund – California
Chinese Progressive Association
Citizens for Choice
County of Los Angeles
Courage Campaign
Department on the Status of Women
East Bay Community Law Center
Feminist Democrats of Sacramento County
Forward Together
Friends Committee on Legislation of California
Guam Communications Network
Having Our Say
Help a Mother Out
Housing California
Interface Children & Family Services
Jewish Family Service of San Diego
John Burton Foundation
Korean Community Center of the East Bay
Law Students for Reproductive Justice
League of Women Voters of California
Legal Aid Society – Employment Law Center
Libreria Del Pueblo, Inc.
LIUNA Locals 777 & 792
Los Angeles County Board of Supervisors
Lutheran Office of Public Policy
March of Dimes Foundation, California Chapter
Monterey County
NARAL Pro-Choice California
National Center for Youth Law
National Council of Jewish Women California
National Health Law Program
National Women’s Political Caucus of California

9 to 5 California
Parent Voices'
Partnership to End Domestic Violence
Pacific Islander Cancer Survivors Network
Peace Over Violence
Physicians for Reproductive Health
Planned Parenthood Affiliates of California
Public Counsel's Children's Right Project and Homelessness Prevention Law Projects
Public Interest Law Project
Rainbow Services, Ltd.
San Francisco Living Wage Coalition
SAVE
SEIU Local 721
Sonoma County Human Services Department
Special Needs Network, Inc.
Starting Over, Inc.
Strong Hearted Native Women's Coalition
Tehama County Department of Social Services
United Ways of California
Ventura County Board of Supervisors
Western Regional Advocacy Project
Women's Health Specialist of California
YWCA of Glendale
(Two individuals)

Oppose:

None.

-- END --

Introduced by Senator HillDecember 1, 2014

An act to amend Sections 22950.5, 22951, 22952, 22956, 22958, 22960, 22961, 22962, 22963, 22970.2, 22971, 22972, 22973, 22974, 22974.7, 22980, 22980.1, 22980.2, 22980.3, and 22980.4 of, and to add Section 22950.1 to, the Business and Professions Code, to add Section 119406 to the Health and Safety Code, and to amend Section 308 of the Penal Code, relating to electronic cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

SB 24, as introduced, Hill. STAKE Act: electronic cigarettes.

Existing law, the Stop Tobacco Access to Kids Enforcement Act (STAKE Act), establishes various requirements for distributors and retailers relating to tobacco sales to minors. Existing law makes it a crime, punishable by a fine not to exceed \$500 or by imprisonment not exceeding 30 days in a county jail, to fail to post a notice, at each point of purchase, stating that the sale of tobacco products to minors is illegal. Existing law also permits enforcing agencies to assess various civil penalties for violations of the STAKE Act.

Existing law prohibits a person from selling or otherwise furnishing an electronic cigarette to minors, and makes a violation punishable as an infraction.

Existing law, the Cigarette and Tobacco Products Licensing Act, requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. Existing law makes a violation of the Cigarette and Tobacco Products Licensing Act a misdemeanor punishable by a fine not to exceed \$5,000, by imprisonment not exceeding one year in a county jail, or by both the

fine and imprisonment. Existing law also permits the State Board of Equalization to assess various civil penalties for violations of the Cigarette and Tobacco Products Licensing Act.

This bill would extend the STAKE Act to sales of electronic cigarettes to minors. The bill would require the State Department of Public Health to enforce the STAKE Act's provisions with regard to sales of electronic cigarettes commencing July 1, 2016.

The bill would provide that the STAKE Act does not invalidate existing local government ordinances regulating the distribution or sale of cigarettes, electronic cigarettes, or tobacco products, or prohibit local governments from adopting ordinances regulating the distribution or sale of cigarettes, electronic cigarettes, or tobacco products that are more restrictive than state law.

The bill would require that retailers apply for a license to sell electronic cigarettes commencing April 15, 2016, and to display the license at each retail location commencing June 30, 2016. The bill would require the State Board of Equalization to administer a statewide program to license retailers of electronic cigarettes.

The bill would make the failure to post a notice, on and after July 1, 2016, at each point of purchase, stating that the sale of electronic cigarettes to minors is illegal, a crime. The bill would also make retailers of electronic cigarettes subject to various civil and criminal penalties if they fail to comply with licensing requirements. By expanding the scope of existing crimes, the bill would impose a state-mandated local program.

The bill would require that cartridges for electronic cigarettes and solutions for filling electronic cigarettes be in child-proof packaging to protect children from opening and ingesting the contents.

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.

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

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

- 1 SECTION 1. Section 22950.1 is added to the Business and
- 2 Professions Code, to read:

1 22950.1. Nothing in this division nor any other law shall be
2 construed to invalidate an existing ordinance of, or prohibit the
3 adoption of an ordinance by, a city or county that regulates the
4 distribution or sale of cigarettes, electronic cigarettes, or tobacco
5 products in a manner that is more restrictive than this division, to
6 the extent that the ordinance is not otherwise prohibited by federal
7 law.

8 SEC. 2. Section 22950.5 of the Business and Professions Code
9 is amended to read:

10 22950.5. For purposes of this division, the following terms
11 have the following meanings:

12 (a) "Department" means the State Department of Public Health.

13 (b) "Enforcing agency" means the State Department of Public
14 Health, another state agency, including, but not limited to, the
15 office of the Attorney General, or a local law enforcement agency,
16 including, but not limited to, a city attorney, district attorney, or
17 county counsel.

18 (c) "*Tobacco product*" means a product containing tobacco
19 leaf, including, but not limited to, cigarettes, cigars, pipe tobacco,
20 snuff, chewing tobacco, dipping tobacco, bidis, or other
21 preparation of tobacco, or a tobacco substitute.

22 (d) "*Electronic cigarette*" means a device that can provide an
23 inhalable dose of nicotine by delivering a vaporized solution.

24 SEC. 3. Section 22951 of the Business and Professions Code
25 is amended to read:

26 22951. The Legislature finds and declares that reducing and
27 eventually eliminating the illegal purchase and consumption of
28 tobacco products *and electronic cigarettes* by minors is critical to
29 ensuring the long-term health of our state's citizens. Accordingly,
30 California must fully comply with federal regulations, particularly
31 the "Synar Amendment," that restrict tobacco sales to minors and
32 require states to vigorously enforce their laws prohibiting the sale
33 and distribution of tobacco products to persons under 18 years of
34 age. Full compliance and vigorous enforcement of the "Synar
35 Amendment" requires the collaboration of multiple state and local
36 agencies that license, inspect, or otherwise conduct business with
37 retailers, distributors, or wholesalers that sell tobacco.

38 SEC. 4. Section 22952 of the Business and Professions Code
39 is amended to read:

1 22952. ~~On or before July 1, 1995, the~~ *The* State Department
2 of Public Health shall do all of the following:

3 (a) Establish and develop a program to reduce the availability
4 of tobacco products *and electronic cigarettes* to persons under 18
5 years of age through the enforcement activities authorized by this
6 division.

7 (b) Establish requirements that retailers of tobacco products *or*
8 *electronic cigarettes* post conspicuously, at each point of purchase,
9 a notice stating that selling tobacco products *or electronic*
10 *cigarettes* to anyone under 18 years of age is illegal and subject
11 to penalties. The notice shall also state that the law requires that
12 all persons selling tobacco products *or electronic cigarettes* check
13 the identification of a purchaser of tobacco products *or electronic*
14 *cigarettes* who reasonably appears to be under 18 years of age.
15 The warning signs shall include a toll-free telephone number to
16 the department for persons to report unlawful sales of tobacco
17 products *or electronic cigarettes* to minors.

18 (c) Provide that primary responsibility for enforcement of this
19 division shall be with the department. In carrying out its
20 enforcement responsibilities, the department shall conduct random,
21 onsite sting inspections at retail sites and shall enlist the assistance
22 of persons that are 15 and 16 years of age in conducting these
23 enforcement activities. The department may conduct onsite sting
24 inspections in response to public complaints or at retail sites where
25 violations have previously occurred, and investigate illegal sales
26 of tobacco products *or electronic cigarettes* to minors by telephone,
27 mail, or the Internet. Participation in these enforcement activities
28 by a person under 18 years of age does not constitute a violation
29 of subdivision (b) of Section 308 of the Penal Code for the person
30 under 18 years of age, and the person under 18 years of age is
31 immune from prosecution thereunder, or under any other provision
32 of law prohibiting the purchase of these products by a person under
33 18 years of age.

34 (d) In accordance with Chapter 3.5 (commencing with Section
35 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
36 the department shall adopt and publish guidelines for the use of
37 persons under 18 years of age in inspections conducted pursuant
38 to subdivision (c) that shall include, but not be limited to, all of
39 the following:

1 (1) An enforcing agency may use persons under 18 years of age
2 who are 15 or 16 years of age in random inspections to determine
3 if sales of cigarettes, *electronic cigarettes*, or other tobacco
4 products are being made to persons under 18 years of age.

5 (2) A photograph or video recording of the person under 18
6 years of age shall be taken prior to each inspection or shift of
7 inspections and retained by the enforcing agency for purposes of
8 verifying appearances.

9 (3) An enforcing agency may use video recording equipment
10 when conducting the inspections to record and document illegal
11 sales or attempted sales.

12 (4) The person under 18 years of age, if questioned about his
13 or her age, need not state his or her actual age but shall present a
14 true and correct identification if verbally asked to present it. Any
15 failure on the part of the person under 18 years of age to provide
16 true and correct identification, if verbally asked for it, shall be a
17 defense to an action pursuant to this section.

18 (5) The person under 18 years of age shall be under the
19 supervision of a regularly employed peace officer during the
20 inspection.

21 (6) All persons under 18 years of age used in this manner by an
22 enforcing agency shall display the appearance of a person under
23 18 years of age. It shall be a defense to an action under this division
24 that the person's appearance was not that which could be generally
25 expected of a person under 18 years of age, under the actual
26 circumstances presented to the seller of the cigarettes, *electronic*
27 *cigarettes*, or other tobacco products at the time of the alleged
28 offense.

29 (7) Following the completion of the sale, the peace officer
30 accompanying the person under 18 years of age shall reenter the
31 retail establishment and shall inform the seller of the random
32 inspection. Following an attempted sale, the enforcing agency shall
33 notify the retail establishment of the inspection.

34 (8) Failure to comply with the procedures set forth in this
35 subdivision shall be a defense to an action brought pursuant to this
36 section.

37 (e) Be responsible for ensuring and reporting the state's
38 compliance with Section 1926 of Title XIX of the federal Public
39 Health Service Act (42 U.S.C. Sec. 300x-26) and any implementing
40 regulations adopted in relation thereto by the United States

1 Department of Health and Human Services. A copy of this report
2 shall be made available to the Governor and the Legislature.

3 (f) Provide that any civil penalties imposed pursuant to Section
4 22958 shall be enforced against the owner or owners of the retail
5 business and not the employees of the business.

6 (g) *The amendments made to this section by the act adding this*
7 *subdivision shall become operative on July 1, 2016.*

8 SEC. 5. Section 22956 of the Business and Professions Code
9 is amended to read:

10 22956. All persons engaging in the retail sale of tobacco
11 products *or electronic cigarettes* shall check the identification of
12 ~~tobacco~~ purchasers *of those items*, to establish the age of the
13 purchaser, if the purchaser reasonably appears to be under 18 years
14 of age.

15 SEC. 6. Section 22958 of the Business and Professions Code
16 is amended to read:

17 22958. (a) An enforcing agency may assess civil penalties
18 against any person, firm, or corporation that sells, gives, or in any
19 way furnishes to another person who is under the age of 18 years,
20 any tobacco, cigarette, *electronic cigarette*, cigarette papers, any
21 other instrument or paraphernalia that is designed for the smoking
22 or ingestion of tobacco, products prepared from tobacco, or any
23 controlled substance, according to the following schedule: (1) a
24 civil penalty of from four hundred dollars (\$400) to six hundred
25 dollars (\$600) for the first violation, (2) a civil penalty of from
26 nine hundred dollars (\$900) to one thousand dollars (\$1,000) for
27 the second violation within a five-year period, (3) a civil penalty
28 of from one thousand two hundred dollars (\$1,200) to one thousand
29 eight hundred dollars (\$1,800) for a third violation within a
30 five-year period, (4) a civil penalty of from three thousand dollars
31 (\$3,000) to four thousand dollars (\$4,000) for a fourth violation
32 within a five-year period, or (5) a civil penalty of from five
33 thousand dollars (\$5,000) to six thousand dollars (\$6,000) for a
34 fifth violation within a five-year period.

35 (b) (1) In addition to the civil penalties described in subdivision
36 (a), upon the assessment of a civil penalty for the third, fourth, or
37 fifth violation, the department, within 60 days of the date of service
38 of the final administrative adjudication on the parties or payment
39 of the civil penalty for an uncontested violation, shall notify the
40 State Board of Equalization of the violation. The State Board of

1 Equalization shall then assess a civil penalty of two hundred fifty
2 dollars (\$250) and suspend or revoke a license issued pursuant to
3 Chapter 2 (commencing with Section 22972) of Division 8.6 in
4 accordance with the following schedule:

5 (A) A 45-day suspension of the license for a third violation at
6 the same location within a five-year period.

7 (B) A 90-day suspension of the license for a fourth violation at
8 the same location within a five-year period.

9 (C) Revocation of the license for a fifth violation at the same
10 location within a five-year period.

11 (2) The provisions of Chapter 4 (commencing with Section
12 55121) of Part 30 of Division 2 of the Revenue and Taxation Code
13 apply with respect to the collection of the penalty imposed by the
14 State Board of Equalization pursuant to paragraph (1).

15 (c) (1) For each suspension or revocation pursuant to
16 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)
17 assessed pursuant to that subdivision, notwithstanding Section
18 22953, shall be deposited into the Cigarette and Tobacco Products
19 Compliance Fund established pursuant to Section 22990. Moneys
20 from that civil penalty deposited into this fund shall be made
21 available to the State Board of Equalization, upon appropriation
22 by the Legislature, for the purposes of meeting its duties under
23 subdivision (b).

24 (2) The department shall, upon request, provide to the State
25 Board of Equalization information concerning any person, firm,
26 or corporation that has been assessed a civil penalty for violation
27 of the STAKE Act pursuant to this section when the department
28 has notified the State Board of Equalization of the violation.

29 (d) The enforcing agency shall assess penalties pursuant to the
30 schedule set forth in subdivision (a) against a person, firm, or
31 corporation that sells, offers for sale, or distributes tobacco products
32 *or electronic cigarettes* from a cigarette or tobacco products
33 vending machine, or a person, firm, or corporation that leases,
34 furnishes, or services these machines in violation of Section 22960.

35 (e) An enforcing agency may assess civil penalties against a
36 person, firm, or corporation that sells or deals in tobacco or any
37 preparation thereof, and fails to post conspicuously and keep posted
38 in the place of business at each point of purchase the notice
39 required pursuant to subdivision (b) of Section 22952. The civil
40 penalty shall be in the amount of two hundred dollars (\$200) for

1 the first offense and five hundred dollars (\$500) for each additional
2 violation.

3 (f) An enforcing agency shall assess penalties in accordance
4 with the schedule set forth in subdivision (a) against a person, firm,
5 or corporation that advertises or causes to be advertised a tobacco
6 product *or electronic cigarette* on an outdoor billboard in violation
7 of Section 22961.

8 (g) If a civil penalty has been assessed pursuant to this section
9 against a person, firm, or corporation for a single, specific violation
10 of this division, the person, firm, or corporation shall not be
11 prosecuted under Section 308 of the Penal Code for a violation
12 based on the same facts or specific incident for which the civil
13 penalty was assessed. If a person, firm, or corporation has been
14 prosecuted for a single, specific violation of Section 308 of the
15 Penal Code, the person, firm, or corporation shall not be assessed
16 a civil penalty under this section based on the same facts or specific
17 incident upon which the prosecution under Section 308 of the Penal
18 Code was based.

19 (h) (1) In the case of a corporation or business with more than
20 one retail location, to determine the number of accumulated
21 violations for purposes of the penalty schedule set forth in
22 subdivision (a), violations of this division by one retail location
23 shall not be accumulated against other retail locations of that same
24 corporation or business.

25 (2) In the case of a retail location that operates pursuant to a
26 franchise as defined in Section 20001, violations of this division
27 accumulated and assessed against a prior owner of a single
28 franchise location shall not be accumulated against a new owner
29 of the same single franchise location for purposes of the penalty
30 schedule set forth in subdivision (a).

31 (i) Proceedings under this section shall be conducted pursuant
32 to Section 131071 of the Health and Safety Code, except in cases
33 where a civil penalty is assessed by an enforcing agency other than
34 the department, in which case proceedings shall be conducted
35 pursuant to the procedures of that agency that are consistent with
36 Section 131071 of the Health and Safety Code.

37 SEC. 7. Section 22960 of the Business and Professions Code
38 is amended to read:

39 22960. (a) Except as provided in subdivision (b), ~~no~~ a cigarette,
40 *electronic cigarette*, or tobacco product shall *not* be sold, offered

1 for sale, or distributed from a vending machine or appliance, or
2 any other coin or token operated mechanical device designed or
3 used for vending purposes, including, but not limited to, machines
4 or devices that use remote control locking mechanisms.

5 (b) (1) ~~Commencing January 1, 1996, cigarette~~ *Cigarette,*
6 *electronic cigarette,* or tobacco product vending machines or
7 appliances may be located at least 15 feet away from the entrance
8 of a premise issued an on-sale public premises license as defined
9 in Section 23039 by the Department of Alcoholic Beverage Control
10 to sell alcoholic beverages.

11 (2) As used in this subdivision “at least 15 feet away from the
12 entrance” means within the premises of the licensed establishment
13 and not outside those premises.

14 (c) This section and subdivision (b) of Section 22958 set forth
15 minimum state restrictions on the sale of cigarettes, *electronic*
16 *cigarettes,* or tobacco products from vending machines or devices
17 and do not preempt or otherwise prohibit the adoption of a local
18 standard that further restricts access to and reduces the availability
19 of cigarettes, *electronic cigarettes,* or tobacco products from
20 vending machines or devices or that imposes a complete ban on
21 the sale of cigarettes or tobacco products from vending machines
22 or devices. A local standard that further restricts or imposes a
23 complete ban on the sale of cigarettes, *electronic cigarettes,* or
24 tobacco products from vending machines or devices shall control
25 in the event of an inconsistency between this section and a local
26 standard.

27 (d) *The amendments made to this section by the act adding this*
28 *subdivision shall become operative on July 1, 2016.*

29 SEC. 8. Section 22961 of the Business and Professions Code
30 is amended to read:

31 22961. (a) No person, firm, corporation, partnership, or other
32 organization shall advertise or cause to be advertised any tobacco
33 products *or electronic cigarettes* on any outdoor billboard located
34 within 1,000 feet of any public or private elementary school, junior
35 high school, or high school, or public playground.

36 (b) This section sets forth minimum state restrictions on the
37 advertisement of any tobacco products *or electronic cigarettes* on
38 outdoor billboards near schools and public playgrounds and does
39 not preempt or otherwise prohibit the adoption of a local standard
40 that imposes a more restrictive or complete ban on billboard

1 advertising or on tobacco-related billboard advertising. A local
2 standard that imposes a more restrictive or complete ban on
3 billboard advertising or on tobacco-related billboard advertising
4 shall control in the event of any inconsistency between this section
5 and a local standard.

6 (c) This section shall not be construed to prohibit the display
7 of a message or advertisement opposing the use of tobacco products
8 *or electronic cigarettes*. However, this subdivision shall not be
9 construed to permit an advertisement promoting the use of tobacco
10 products *or electronic cigarettes* by including a message opposing
11 the use of tobacco products *or electronic cigarettes* within that
12 advertisement.

13 SEC. 9. Section 22962 of the Business and Professions Code
14 is amended to read:

15 22962. (a) For purposes of this section, the following terms
16 have the following meanings:

17 (1) "Self-service display" means the open display of *electronic*
18 *cigarettes*, tobacco products, or tobacco paraphernalia in a manner
19 that is accessible to the general public without the assistance of
20 the retailer or employee of the retailer.

21 (2) "Tobacco paraphernalia" means cigarette papers or wrappers,
22 blunt wraps as defined in Section 308 of the Penal Code, pipes,
23 holders of smoking materials of all types, cigarette rolling
24 machines, or other instruments or things designed for the smoking
25 or ingestion of tobacco products.

26 ~~(3) "Tobacco product" means any product containing tobacco~~
27 ~~leaf, including, but not limited to, cigarettes, cigars, pipe tobacco,~~
28 ~~snuff, chewing tobacco, dipping tobacco, bidis, or any other~~
29 ~~preparation of tobacco.~~

30 ~~(4)~~

31 (3) "Tobacco store" means a retail business that meets all of the
32 following requirements:

33 (A) Primarily sells tobacco products *or electronic cigarettes*.

34 (B) Generates more than 60 percent of its gross revenues
35 annually from the sale of *electronic cigarettes*, tobacco ~~products~~
36 *products*, and tobacco paraphernalia.

37 (C) Does not permit any person under 18 years of age to be
38 present or enter the premises at any time, unless accompanied by
39 the person's parent or legal guardian, as defined in Section 6903
40 of the Family Code.

1 (D) Does not sell alcoholic beverages or food for consumption
2 on the premises.

3 (b) (1) (A) Except as permitted in subdivision (b) of Section
4 22960, it is unlawful for a person engaged in the retail sale of
5 tobacco products *or electronic cigarettes* to sell, offer for sale, or
6 display for sale any *electronic cigarette, tobacco-product product,*
7 or tobacco paraphernalia by self-service display. A person who
8 violates this section is subject to those civil penalties specified in
9 the schedule in subdivision (a) of Section 22958.

10 (B) A person who violates this section is subject to those civil
11 penalties specified in the schedule in subdivision (a) of Section
12 22958.

13 (2) It is unlawful for a person engaged in the retail sale of blunt
14 wraps to place or maintain, or to cause to be placed or maintained,
15 any blunt wraps advertising display within two feet of candy,
16 snack, or nonalcoholic beverage displayed inside any store or
17 business.

18 (3) It is unlawful for any person or business to place or maintain,
19 or cause to be placed or maintained, any blunt wrap advertising
20 display that is less than four feet above the floor.

21 (c) Subdivision (b) shall not apply to the display in a tobacco
22 store of cigars, pipe tobacco, snuff, chewing tobacco, or dipping
23 tobacco, provided that in the case of cigars they are generally not
24 sold or offered for sale in a sealed package of the manufacturer or
25 importer containing less than six cigars. In any enforcement action
26 brought pursuant to this division, the retail business that displays
27 any of the items described in this subdivision in a self-service
28 display shall have the burden of proving that it qualifies for the
29 exemption established in this subdivision.

30 (d) The Attorney General, a city attorney, a county counsel, or
31 a district attorney may bring a civil action to enforce this section.

32 (e) This section does not preempt or otherwise prohibit the
33 adoption of a local standard that imposes greater restrictions on
34 the access to tobacco products *or electronic cigarettes* than the
35 restrictions imposed by this section. To the extent that there is an
36 inconsistency between this section and a local standard that
37 imposes greater restrictions on the access to tobacco products *or*
38 *electronic cigarettes*, the greater restriction on the access to tobacco
39 products *or electronic cigarettes* in the local standard shall prevail.

1 SEC. 10. Section 22963 of the Business and Professions Code
2 is amended to read:

3 22963. (a) The sale, distribution, or nonsale distribution of
4 tobacco products *or electronic cigarettes* directly or indirectly to
5 any person under the age of 18 years through the United States
6 Postal Service or through any other public or private postal or
7 package delivery service at locations, including, but not limited
8 to, public mailboxes and mailbox stores, is prohibited.

9 (b) Any person selling or distributing, or engaging in the nonsale
10 distribution of, tobacco products *or electronic cigarettes* directly
11 to a consumer in the state through the United States Postal Service
12 or by any other public or private postal or package delivery service,
13 including orders placed by mail, telephone, facsimile transmission,
14 or the Internet, shall comply with the following provisions:

15 (1) (A) Before enrolling a person as a customer, or distributing
16 or selling, or engaging in the nonsale distribution of, the tobacco
17 product *or electronic cigarette* through any of these means, the
18 distributor or seller shall verify that the purchaser or recipient of
19 the product is 18 years of age or older. The distributor or seller
20 shall attempt to match the name, address, and date of birth provided
21 by the customer to information contained in records in a database
22 of individuals whose age has been verified to be 18 years or older
23 by reference to an appropriate database of government records
24 kept by the distributor, a direct marketing firm, or any other entity.
25 In the case of a sale, the distributor or seller shall also verify that
26 the billing address on the check or credit card offered for payment
27 by the purchaser matches the address listed in the database.

28 (B) If the seller, distributor, or nonsale distributor, is unable to
29 verify that the purchaser or recipient is 18 years of age or older
30 pursuant to subparagraph (A), he or she shall require the customer
31 or recipient to submit an age-verification kit consisting of an
32 attestation signed by the customer or recipient that he or she is 18
33 years of age or older and a copy of a valid form of government
34 identification. For the purposes of this section, a valid form of
35 government identification includes a driver's license, state
36 identification card, passport, an official naturalization or
37 immigration document, such as an alien registration receipt card
38 (commonly known as a "green card") or an immigrant visa, or
39 military identification. In the case of a sale, the distributor or seller
40 shall also verify that the billing address on the check or credit card

1 provided by the consumer matches the address listed in the form
2 of government identification.

3 (2) In the case of a sale, the distributor or seller shall impose a
4 two-carton minimum on each order of cigarettes, and shall require
5 payment for the purchase of any tobacco product *or electronic*
6 *cigarette* to be made by personal check of the purchaser or the
7 purchaser's credit card. No money order or cash payment shall be
8 received or permitted. The distributor or seller shall submit to each
9 credit card acquiring company with which it has credit card sales
10 identification information in an appropriate form and format so
11 that the words "tobacco product" *or "electronic cigarette"* may
12 be printed in the purchaser's credit card statement when a purchase
13 of a tobacco product *or electronic cigarette* is made by credit card
14 payment.

15 (3) In the case of a sale, the distributor or seller shall make a
16 telephone call after 5 p.m. to the purchaser confirming the order
17 prior to shipping the tobacco products *or electronic cigarettes*.
18 The telephone call may be a person-to-person call or a recorded
19 message. The distributor or seller is not required to speak directly
20 with a person and may leave a message on an answering machine
21 or by voice mail.

22 (4) The nonsale distributor shall deliver the tobacco product *or*
23 *electronic cigarette* to the recipient's verified mailing address, or
24 in the case of a sale, the seller or distributor shall deliver the
25 tobacco product *or electronic cigarette* to the purchaser's verified
26 billing address on the check or credit card used for payment. No
27 delivery described under this section shall be permitted to any post
28 office box.

29 (c) Notwithstanding subdivisions (a) and (b), if a seller,
30 distributor, or nonsale distributor, complies with all of the
31 requirements of this section and a minor obtains a tobacco product
32 *or electronic cigarette* by any of the means described in subdivision
33 (b), the seller, distributor, or nonsale distributor is not in violation
34 of this section.

35 (d) For the purposes of the enforcement of this section pursuant
36 to Section 22958, the acts of the United States Postal Service or
37 other common carrier when engaged in the business of transporting
38 and delivering packages for others, and the acts of a person,
39 whether compensated or not, who transports or delivers a package

1 for another person without any reason to know of the package's
2 contents, are not unlawful and are not subject to civil penalties.

3 (e) (1) (A) For the purposes of this section, a "distributor" is
4 any person or entity, within or outside the state, who agrees to
5 distribute tobacco products *or electronic cigarettes* to a customer
6 or recipient within the state. The United States Postal Service or
7 any other public or private postal or package delivery service are
8 not distributors within the meaning of this section.

9 (B) A "nonsale distributor" is any person inside or outside of
10 this state who, directly or indirectly, knowingly provides tobacco
11 products *or electronic cigarettes* to any person in this state as part
12 of a nonsale transaction. "Nonsale distributor" includes the person
13 or entity who provides the tobacco product *or electronic cigarette*
14 for delivery and the person or entity who delivers the product to
15 the recipient as part of a nonsale transaction.

16 (C) "Nonsale distribution" means to give *electronic cigarettes*,
17 smokeless ~~tobacco~~ *tobacco*, or cigarettes to the general public at
18 no cost, or at nominal cost, or to give coupons, coupon offers, gift
19 certificates, gift cards, or other similar offers, or rebate offers for
20 *electronic cigarettes*, smokeless ~~tobacco~~ *tobacco*, or cigarettes to
21 the general public at no cost or at nominal cost. Distribution of
22 *electronic cigarettes*, tobacco products, coupons, coupon offers,
23 gift certificates, gift cards, or other similar offers, or rebate offers
24 in connection with the sale of another item, including *electronic*
25 *cigarettes*, tobacco products, cigarette lighters, magazines, or
26 newspapers shall not constitute nonsale distribution.

27 (2) For the purpose of this section, a "seller" is any person or
28 entity, within or outside the state, who agrees to sell tobacco
29 products *or electronic cigarettes* to a customer within the state.
30 The United States Postal Service or any other public or private
31 postal or package delivery service are not sellers within the
32 meaning of this section.

33 (3) For the purpose of this section, a "carton" is a package or
34 container that contains 200 cigarettes.

35 (f) A district attorney, city attorney, or the Attorney General
36 may assess civil penalties against any person, firm, corporation,
37 or other entity that violates this section, according to the following
38 schedule:

1 (1) A civil penalty of not less than one thousand dollars (\$1,000)
2 and not more than two thousand dollars (\$2,000) for the first
3 violation.

4 (2) A civil penalty of not less than two thousand five hundred
5 dollars (\$2,500) and not more than three thousand five hundred
6 dollars (\$3,500) for the second violation.

7 (3) A civil penalty of not less than four thousand dollars (\$4,000)
8 and not more than five thousand dollars (\$5,000) for the third
9 violation within a five-year period.

10 (4) A civil penalty of not less than five thousand five hundred
11 dollars (\$5,500) and not more than six thousand five hundred
12 dollars (\$6,500) for the fourth violation within a five-year period.

13 (5) A civil penalty of ten thousand dollars (\$10,000) for a fifth
14 or subsequent violation within a five-year period.

15 SEC. 11. Section 22970.2 of the Business and Professions
16 Code is amended to read:

17 22970.2. The board shall administer a statewide program to
18 license manufacturers, importers, distributors, wholesalers, and
19 retailers of cigarettes and tobacco products, *and retailers of*
20 *electronic cigarettes.*

21 SEC. 12. Section 22971 of the Business and Professions Code
22 is amended to read:

23 22971. For purposes of this division, the following terms shall
24 have the following meanings:

25 (a) "Board" means the State Board of Equalization.

26 (b) "Brand family" has the same meaning as that term is defined
27 in paragraph (2) of subdivision (a) of Section 30165.1 of the
28 Revenue and Taxation Code.

29 (c) (1) "Cigarette" means a cigarette as defined in Section
30 30003 of the Revenue and Taxation Code.

31 (2) "*Electronic cigarette*" means a device as defined in
32 *subdivision (d) of Section 22950.5.*

33 (d) (1) "Control" or "controlling" means possession, direct or
34 indirect, of the power:

35 (A) To vote 25 percent or more of any class of the voting
36 securities issued by a person.

37 (B) To direct or cause the direction of the management and
38 policies of a person, whether through the ownership of voting
39 securities, by contract, other than a commercial contract for goods
40 or nonmanagement services, or as otherwise provided; however,

1 no individual shall be deemed to control a person solely on account
2 of being a director, officer, or employee of that person.

3 (2) For purposes of subparagraph (B) of paragraph (1), a person
4 who, directly or indirectly, owns, controls, holds, with the power
5 to vote, or holds proxies representing 10 percent or more of the
6 then outstanding voting securities issued by another person, is
7 presumed to control that other person.

8 (3) For purposes of this division, the board may determine
9 whether a person in fact controls another person.

10 (e) "Display for sale" means the placement of cigarettes,
11 *electronic cigarettes*, or tobacco products in a vending machine
12 or in retail stock for the purpose of selling or gifting the cigarettes,
13 *electronic cigarettes*, or tobacco products. For purposes of this
14 definition, the clear and easily visible display of cigarettes,
15 *electronic cigarettes*, or tobacco products shall create a rebuttable
16 presumption that ~~either~~ *the products* were displayed for sale.

17 (f) "Distributor" means a distributor as defined in Section 30011
18 of the Revenue and Taxation Code.

19 (g) "Gifting" means any transfer of title or possession without
20 consideration, exchange, or barter, in any manner or by any means,
21 of cigarettes, *electronic cigarettes*, or tobacco products that have
22 been purchased for resale under a license issued pursuant to this
23 division if the transfer occurs while the license is suspended or
24 after the effective date of its revocation.

25 (h) "Importer" means an importer as defined in Section 30019
26 of the Revenue and Taxation Code.

27 (i) "Law enforcement agency" means a sheriff, a police
28 department, or a city, county, or city and county agency or
29 department designated by the governing body of that agency to
30 enforce this chapter or to enforce local smoking and tobacco
31 ordinances and regulations.

32 (j) "License" means a license issued by the board pursuant to
33 this division.

34 (k) "Licensee" means any person holding a license issued by
35 the board pursuant to this division.

36 (l) "Manufacturer" means a manufacturer of cigarettes,
37 *electronic cigarettes*, or tobacco products sold in this state.

38 (m) "Notice" or "notification" means, unless as otherwise
39 provided, the written notice or notification provided to a licensee
40 by the board by either actual delivery to the licensee or by

1 first-class mail addressed to the licensee at the address on the
2 license.

3 (n) "Package of cigarettes" means a package as defined in
4 Section 30015 of the Revenue and Taxation Code.

5 (o) "Person" means a person as defined in Section 30010 of the
6 Revenue and Taxation Code.

7 (p) "Retailer" means a person who engages in this state in the
8 sale of cigarettes, *electronic cigarettes*, or tobacco products directly
9 to the public from a retail location. Retailer includes a person who
10 operates vending machines from which cigarettes, *electronic*
11 *cigarettes*, or tobacco products are sold in this state.

12 (q) "Retail location" means both of the following:

13 (1) Any building from which cigarettes, *electronic cigarettes*,
14 or tobacco products are sold at retail.

15 (2) A vending machine.

16 (r) "Sale" or "sold" means a sale as defined in Section 30006
17 of the Revenue and Taxation Code.

18 (s) "Tobacco products" means tobacco products as defined in
19 subdivision (b) of Section 30121 and subdivision (b) of Section
20 30131.1 of the Revenue and Taxation Code.

21 (t) "Unstamped package of cigarettes" means a package of
22 cigarettes that does not bear a tax stamp as required under Part 13
23 (commencing with Section 30001) of Division 2 of the Revenue
24 and Taxation Code, including a package of cigarettes that bears a
25 tax stamp of another state or taxing jurisdiction, a package of
26 cigarettes that bears a counterfeit tax stamp, or a stamped or
27 unstamped package of cigarettes that is marked "Not for sale in
28 the United States."

29 (u) "Wholesaler" means a wholesaler as defined in Section
30 30016 of the Revenue and Taxation Code.

31 SEC. 13. Section 22972 of the Business and Professions Code
32 is amended to read:

33 ~~22972. (a) Commencing June 30, 2004, a~~ A retailer shall have
34 in place and maintain a license to engage in the sale of cigarettes,
35 *electronic cigarettes*, or tobacco products. A retailer that owns or
36 controls more than one retail location shall obtain a separate license
37 for each retail location, but may submit a single application for
38 those licenses.

39 (b) The retailer shall conspicuously display the license at each
40 retail location in a manner visible to the public.

1 (c) A license is not assignable or transferable. A person who
2 obtains a license as a retailer who ceases to do business as specified
3 in the license, or who never commenced business, or whose license
4 is suspended or revoked, shall immediately surrender the license
5 to the board.

6 (d) A license shall be valid for a 12-month period, and shall be
7 renewed annually.

8 (e) *The amendments made to this section by the act adding this*
9 *subdivision shall become operative on June 30, 2016.*

10 SEC. 14. Section 22973 of the Business and Professions Code
11 is amended to read:

12 22973. (a) An application for a license shall be filed ~~on or~~
13 ~~before April 15, 2004~~, on a form prescribed by the board and shall
14 include the following:

15 (1) The name, address, and telephone number of the applicant.

16 (2) The business name, address, and telephone number of each
17 retail location. For applicants who control more than one retail
18 location, an address for receipt of correspondence or notices from
19 the board, such as a headquarters or corporate office of the retailer,
20 shall also be included on the application and listed on the license.
21 Citations issued to licensees shall be forwarded to all addressees
22 on the license.

23 (3) A statement by the applicant affirming that the applicant
24 has not been convicted of a felony and has not violated and will
25 not violate or cause or permit to be violated any of the provisions
26 of this division or any rule of the board applicable to the applicant
27 or pertaining to the manufacture, sale, or distribution of cigarettes,
28 *electronic cigarettes*, or tobacco products. If the applicant is unable
29 to affirm this statement, the application shall contain a statement
30 by the applicant of the nature of any violation or the reasons that
31 will prevent the applicant from complying with the requirements
32 with respect to the statement.

33 (4) If any other licenses or permits have been issued by the
34 board or the Department of Alcoholic Beverage Control to the
35 applicant, the license or permit number of those licenses or permits
36 then in effect.

37 (5) A statement by the applicant that the contents of the
38 application are complete, true, and correct. Any person who signs
39 a statement pursuant to this subdivision that asserts the truth of
40 any material matter that he or she knows to be false is guilty of a

1 misdemeanor punishable by imprisonment of up to one year in the
2 county jail, or a fine of not more than one thousand dollars
3 (\$1,000), or both the imprisonment and the fine.

4 (6) The signature of the applicant.

5 (7) Any other information the board may require.

6 (b) The board may investigate to determine the truthfulness and
7 completeness of the information provided in the application. The
8 board may issue a license without further investigation to an
9 applicant for a retail location if the applicant holds a valid license
10 from the Department of Alcoholic Beverage Control for that same
11 location.

12 (c) The board shall provide electronic means for applicants to
13 download and submit applications.

14 (d) (1) A one-time license fee of one hundred dollars (\$100)
15 shall be submitted with each application. An applicant that owns
16 or controls more than one retail location shall obtain a separate
17 license for each retail location, but may submit a single application
18 for those licenses with a one-time license fee of one hundred dollars
19 (\$100) per location.

20 (2) The one-time fee required by this subdivision does not apply
21 to an application for renewal of a license for a retail location for
22 which the one-time license fee has already been paid. If a license
23 is reinstated after its expiration, the retailer, as a condition
24 precedent to its reinstatement, shall pay a reinstatement fee of one
25 hundred dollars (\$100).

26 (3) *The one-time fee required by this subdivision does not apply*
27 *to a retail location selling electronic cigarettes if the retail location*
28 *has already obtained a license to sell cigarettes or tobacco*
29 *products.*

30 (e) *The amendments made to this section by the act adding this*
31 *subdivision shall become operative on April 15, 2016.*

32 SEC. 15. Section 22974 of the Business and Professions Code
33 is amended to read:

34 22974. A retailer shall retain purchase invoices that meet the
35 requirements set forth in Section 22978.4 for all cigarettes,
36 *electronic cigarettes*, or tobacco products the retailer purchased
37 for a period of four years. The records shall be kept at the retail
38 location for at least one year after the purchase. Invoices shall be
39 made available upon request during normal business hours for
40 review inspection and copying by the board or by a law

1 enforcement agency. Any retailer found in violation of these
2 requirements or any person who fails, refuses, or neglects to retain
3 or make available invoices for inspection and copying in
4 accordance with this section shall be subject to penalties pursuant
5 to Section 22981.

6 SEC. 16. Section 22974.7 of the Business and Professions
7 Code is amended to read:

8 22974.7. In addition to any other civil or criminal penalty
9 provided by law, upon a finding that a retailer has violated any
10 provision of this division, the board may take the following actions:

11 (a) In the case of the first offense, the board may revoke or
12 suspend the license or licenses of the retailer pursuant to the
13 procedures applicable to the revocation of a license set forth in
14 Section 30148 of the Revenue and Taxation Code.

15 (b) In the case of a second or any subsequent offense, in addition
16 to the action authorized under subdivision (a), the board may
17 impose a civil penalty in an amount not to exceed the greater of
18 either of the following:

19 (1) Five times the retail value of the seized cigarettes, *electronic*
20 *cigarettes*, or tobacco products.

21 (2) Five thousand dollars (\$5,000).

22 SEC. 17. Section 22980 of the Business and Professions Code
23 is amended to read:

24 22980. (a) (1) Any peace officer, or board employee granted
25 limited peace officer status pursuant to paragraph (6) of subdivision
26 (a) of Section 830.11 of the Penal Code, upon presenting
27 appropriate credentials, is authorized to enter any place as described
28 in paragraph (3) and to conduct inspections in accordance with the
29 following paragraphs, inclusive.

30 (2) Inspections shall be performed in a reasonable manner and
31 at times that are reasonable under the circumstances, taking into
32 consideration the normal business hours of the place to be entered.

33 (3) Inspections may be at any place at which cigarettes,
34 *electronic cigarettes*, or tobacco products are sold, produced, or
35 stored or at any site where evidence of activities involving evasion
36 of cigarette or tobacco products tax and violations of Section
37 30165.1 of the Revenue and Taxation Code may be discovered.

38 (4) Inspections shall be requested or conducted no more than
39 once in a 24-hour period.

1 (b) Any person that refuses to allow an inspection shall be
2 subject to the penalties imposed pursuant to Section 22981.

3 SEC. 18. Section 22980.1 of the Business and Professions
4 Code is amended to read:

5 22980.1. (a) No manufacturer or importer shall sell cigarettes,
6 *electronic cigarettes*, or tobacco products to a distributor,
7 wholesaler, retailer, or any other person who is not licensed
8 pursuant to this division or whose license has been suspended or
9 revoked.

10 (b) (1) Except as provided in paragraph (2), no distributor or
11 wholesaler shall sell cigarettes, *electronic cigarettes*, or tobacco
12 products to a retailer, wholesaler, distributor, or any other person
13 who is not licensed pursuant to this division or whose license has
14 been suspended or revoked.

15 (2) This subdivision does not apply to any sale of cigarettes,
16 *electronic cigarettes*, or tobacco products by a distributor,
17 wholesaler, or any other person to a retailer, wholesaler, distributor,
18 or any other person that the state, pursuant to the United States
19 Constitution, the laws of the United States, or the California
20 Constitution, is prohibited from regulating.

21 (c) No retailer, distributor, or wholesaler shall purchase packages
22 of cigarettes or tobacco products from a manufacturer or importer
23 who is not licensed pursuant to this division or whose license has
24 been suspended or revoked.

25 (d) (1) No retailer, or wholesaler shall purchase cigarettes,
26 *electronic cigarettes*, or tobacco products from any person who is
27 not licensed pursuant to this division or whose license has been
28 suspended or revoked.

29 (2) Notwithstanding subdivision (c), no distributor shall purchase
30 cigarettes, *electronic cigarettes*, or tobacco products from any
31 person who is required to be licensed pursuant to this division but
32 who is not licensed or whose license has been suspended or
33 revoked.

34 (e) Each separate sale to, or by, a retailer, wholesaler, distributor,
35 importer, manufacturer, or any other person who is not licensed
36 pursuant to this division shall constitute a separate violation.

37 (f) No manufacturer, distributor, wholesaler, or importer may
38 sell cigarettes, *electronic cigarettes*, or tobacco products to any
39 retailer or wholesaler whose license has been suspended or revoked
40 unless all outstanding debts of that retailer or wholesaler that are

1 owed to a wholesaler or distributor for cigarettes, *electronic*
2 *cigarettes*, or tobacco products are paid and the license of that
3 retailer or wholesaler has been reinstated by the board. Any
4 payment received from a retailer or wholesaler shall be credited
5 first to the outstanding debt for cigarettes, *electronic cigarettes*,
6 or tobacco products and must be immediately reported to the board.
7 The board shall determine the debt status of a suspended retailer
8 or wholesaler licensee 25 days prior to the reinstatement of the
9 license.

10 (g) No importer, distributor, or wholesaler, or distributor
11 functioning as a wholesaler, or retailer, shall purchase, obtain, or
12 otherwise acquire any package of cigarettes to which a stamp or
13 meter impression may not be affixed in accordance with
14 subdivision (b) of Section 30163 or subdivision (e) of Section
15 30165.1 of the Revenue and Taxation Code, or any cigarettes
16 obtained from a manufacturer or importer that cannot demonstrate
17 full compliance with all requirements of the federal Cigarette
18 Labeling and Advertising Act (15 U.S.C. Sec. 13335a et seq.) for
19 the reporting of ingredients added to cigarettes.

20 (h) (1) Failure to comply with the provisions of this section
21 shall be a misdemeanor subject to penalties pursuant to Section
22 22981.

23 (2) Notwithstanding paragraph (1), a manufacturer or importer
24 who uses the most up-to-date licensing information provided by
25 the board on the board's *Internet* Web site to determine a person's
26 licensing status is presumed to be in compliance with this section.

27 (i) The amendments that are made to this section by the act
28 adding this subdivision shall become operative May 1, 2007.

29 SEC. 19. Section 22980.2 of the Business and Professions
30 Code is amended to read:

31 22980.2. (a) A person or entity that engages in the business
32 of selling cigarettes, *electronic cigarettes*, or tobacco products in
33 this state either without a valid license or after a license has been
34 suspended or revoked, and each officer of any corporation that so
35 engages in this business, is guilty of a misdemeanor punishable as
36 provided in Section 22981.

37 (b) Each day after notification by the board or by a law
38 enforcement agency that a manufacturer, wholesaler, distributor,
39 importer, retailer, or any other person required to be licensed under
40 this division offers cigarettes, *electronic cigarettes*, and tobacco

1 products for sale or exchange without a valid license for the
2 location from which they are offered for sale shall constitute a
3 separate violation.

4 (c) Continued sales or gifting of cigarettes, *electronic cigarettes*,
5 and tobacco products either without a valid license or after a
6 notification of suspension or revocation shall constitute a violation
7 punishable as provided in Section 22981, and shall result in the
8 seizure of all cigarettes, *electronic cigarettes*, and tobacco products
9 in the possession of the person by the board or a law enforcement
10 agency. Any cigarettes, *electronic cigarettes*, and tobacco products
11 seized by the board or by a law enforcement agency shall be
12 deemed forfeited.

13 SEC. 20. Section 22980.3 of the Business and Professions
14 Code is amended to read:

15 22980.3. (a) Licenses issued pursuant to this division shall be
16 subject to suspension or revocation for violations of this division
17 or the Revenue and Taxation Code as provided in this section.

18 (1) In addition to any applicable fines or penalties for a violation,
19 upon first conviction of a violation, a licensee shall receive a
20 written notice from the board detailing the suspension and
21 revocation provisions of this division. At its discretion, the board
22 may also suspend a license for up to 30 days.

23 (2) In addition to any applicable fines or penalties for a violation,
24 upon a second conviction of a violation within four years of a
25 previous violation, the license shall be revoked.

26 (b) The date of the occurrence of a violation shall be used to
27 calculate the duration between subsequent violations. A violation
28 shall be noted in the license record at the board only after judicial
29 conviction or final adjudication of a violation.

30 (c) Upon updating a record for a violation triggering a
31 suspension, the board shall serve the licensee with a notice of
32 suspension and shall order the licensee to cease the sale, gifting,
33 or displaying for sale of cigarettes, *electronic cigarettes*, or tobacco
34 products for the period of the suspension. The notice of suspension
35 shall inform the licensee of the effective dates of the suspension.

36 (d) Continued sales or gifting of cigarettes, *electronic cigarettes*,
37 or tobacco products after the effective date of the suspension shall
38 constitute a violation of this division and result in the revocation
39 of a license.

1 (e) Upon completion of a suspension period, a license shall be
2 reinstated by the board upon certification that all outstanding debts
3 of that retailer or wholesaler that are owed to a wholesaler or
4 distributor for the purchase of cigarettes, *electronic cigarettes*, and
5 tobacco products are paid.

6 (f) Upon updating a record for a violation triggering a
7 revocation, the board shall serve the licensee with a notice of
8 revocation and shall order the licensee to cease the sale, gifting,
9 or displaying for sale of cigarettes, *electronic cigarettes*, or tobacco
10 products on and after the effective date of the revocation. The
11 notice of revocation shall inform the licensee of the effective date
12 of the revocation.

13 (g) After a revocation, a previously licensed applicant may apply
14 for a new license after six months. The board may, at its discretion,
15 issue a new license.

16 (h) Upon updating a license record for a violation, suspension,
17 or revocation to a license of a person or entity that owns or controls
18 more than one location, the board shall send notice in writing of
19 the violations, suspensions, or revocations within 15 days of the
20 board's action to the address included in the application and listed
21 on the license for receipt of correspondence or notices from the
22 board.

23 (i) Upon suspension or revocation of a license pursuant to this
24 section, the board shall notify all licensed distributors and
25 wholesalers by electronic mail within 48 hours of the suspension
26 or revocation of that license. All licensed distributors and
27 wholesalers shall provide the board and shall update, as necessary,
28 an electronic mail address that the board can use for purposes of
29 making the notifications required by this subdivision.

30 (j) Violations by a licensee at one location may not be
31 accumulated against other locations of that same licensee.
32 Violations accumulated against a prior owner at a licensed location
33 may not be accumulated against a new owner at the same licensed
34 location.

35 (k) For purposes of this section, a violation includes violations
36 of the Revenue and Taxation Code relating to cigarettes and
37 tobacco products, and violations of this division. Only one violation
38 per discrete action shall be counted toward a suspension or
39 revocation of a license.

1 SEC. 21. Section 22980.4 of the Business and Professions
2 Code is amended to read:

3 22980.4. A person who, after receiving a notice of suspension
4 or revocation, continues to display for sale cigarettes, *electronic*
5 *cigarettes*, or tobacco products shall be subject to a civil penalty
6 of one thousand dollars (\$1,000) for each offense, and shall not
7 be subject to Section 22981.

8 SEC. 22. Section 119406 is added to the Health and Safety
9 Code, to read:

10 119406. (a) All cartridges for electronic cigarettes and
11 solutions for filling or refilling an electronic cigarette shall be in
12 child-proof packaging.

13 (b) "Child-proof packaging" means packaging that contains
14 elements, including, but not limited to, safety caps or blister packs,
15 designed to protect children from being able to open and ingest
16 the contents.

17 SEC. 23. Section 308 of the Penal Code is amended to read:

18 308. (a) (1) Every person, firm, or corporation that knowingly
19 or under circumstances in which it has knowledge, or should
20 otherwise have grounds for knowledge, sells, gives, or in any way
21 furnishes to another person who is under the age of 18 years any
22 tobacco, cigarette, or cigarette papers, or blunts wraps, or any other
23 preparation of tobacco, or any other instrument or paraphernalia
24 that is designed for the smoking or ingestion of tobacco, products
25 prepared from tobacco, or any controlled substance, is subject to
26 either a criminal action for a misdemeanor or to a civil action
27 brought by a city attorney, a county counsel, or a district attorney,
28 punishable by a fine of two hundred dollars (\$200) for the first
29 offense, five hundred dollars (\$500) for the second offense, and
30 one thousand dollars (\$1,000) for the third offense.

31 Notwithstanding Section 1464 or any other law, 25 percent of
32 each civil and criminal penalty collected pursuant to this
33 subdivision shall be paid to the office of the city attorney, county
34 counsel, or district attorney, whoever is responsible for bringing
35 the successful action, and 25 percent of each civil and criminal
36 penalty collected pursuant to this subdivision shall be paid to the
37 city or county for the administration and cost of the community
38 service work component provided in subdivision (b).

39 Proof that a defendant, or his or her employee or agent,
40 demanded, was shown, and reasonably relied upon evidence of

1 majority shall be defense to any action brought pursuant to this
2 subdivision. Evidence of majority of a person is a facsimile of or
3 a reasonable likeness of a document issued by a federal, state,
4 county, or municipal government, or subdivision or agency thereof,
5 including, but not limited to, a motor vehicle operator's license, a
6 registration certificate issued under the federal Selective Service
7 Act, or an identification card issued to a member of the Armed
8 Forces.

9 For purposes of this section, the person liable for selling or
10 furnishing tobacco products to minors by a tobacco vending
11 machine shall be the person authorizing the installation or
12 placement of the tobacco vending machine upon premises he or
13 she manages or otherwise controls and under circumstances in
14 which he or she has knowledge, or should otherwise have grounds
15 for knowledge, that the tobacco vending machine will be utilized
16 by minors.

17 (2) For purposes of this section, "blunt wraps" means cigar
18 papers or cigar wrappers of all types that are designed for smoking
19 or ingestion of tobacco products and contain less than 50 percent
20 tobacco.

21 (b) Every person under the age of 18 years who purchases,
22 receives, or possesses any tobacco, cigarette, or cigarette papers,
23 or any other preparation of tobacco, or any other instrument or
24 paraphernalia that is designed for the smoking of tobacco, products
25 prepared from tobacco, or any controlled substance shall, upon
26 conviction, be punished by a fine of seventy-five dollars (\$75) or
27 30 hours of community service work.

28 (c) Every person, firm, or corporation that sells, or deals in
29 tobacco or any preparation thereof, *and, on and after July 1, 2016,*
30 *every person, firm, or corporation that sells or deals in electronic*
31 *cigarettes*, shall post conspicuously and keep so posted in his, her,
32 or their place of business at each point of purchase the notice
33 required pursuant to subdivision (b) of Section 22952 of the
34 Business and Professions Code, and any person failing to do so
35 shall, upon conviction, be punished by a fine of fifty dollars (\$50)
36 for the first offense, one hundred dollars (\$100) for the second
37 offense, two hundred fifty dollars (\$250) for the third offense, and
38 five hundred dollars (\$500) for the fourth offense and each
39 subsequent violation of this provision, or by imprisonment in a
40 county jail not exceeding 30 days.

1 (d) For purposes of determining the liability of persons, firms,
2 or corporations controlling franchises or business operations in
3 multiple locations for the second and subsequent violations of this
4 section, each individual franchise or business location shall be
5 deemed a separate entity.

6 (e) Notwithstanding subdivision (b), any person under 18 years
7 of age who purchases, receives, or possesses any tobacco, cigarette,
8 *electronic cigarette*, or cigarette papers, or any other preparation
9 of tobacco, any other instrument or paraphernalia that is designed
10 for the smoking of tobacco, or products prepared from tobacco is
11 immune from prosecution for that purchase, receipt, or possession
12 while participating in either of the following:

13 (1) An enforcement activity that complies with the guidelines
14 adopted pursuant to subdivisions (c) and (d) of Section 22952 of
15 the Business and Professions Code.

16 (2) An activity conducted by the State Department of Public
17 Health, a local health department, or a law enforcement agency
18 for the purpose of determining or evaluating youth tobacco
19 purchase rates.

20 (f) It is the Legislature's intent to regulate the subject matter of
21 this section. As a result, a city, county, or city and county shall not
22 adopt any ordinance or regulation inconsistent with this section.

23 SEC. 24. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 the only costs that may be incurred by a local agency or school
26 district will be incurred because this act creates a new crime or
27 infraction, eliminates a crime or infraction, or changes the penalty
28 for a crime or infraction, within the meaning of Section 17556 of
29 the Government Code, or changes the definition of a crime within
30 the meaning of Section 6 of Article XIII B of the California
31 Constitution.

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AMENDED IN SENATE MARCH 10, 2015

SENATE BILL

No. 140

Introduced by Senator Leno
(Principal coauthor: Senator Pan)
(Principal coauthor: Assembly Member Ting)
~~**(Coauthor: Senator Hernandez)**~~
(Coauthors: Senators Hernandez, McGuire, and Stone)
(Coauthor: Assembly Member Chiu)

January 26, 2015

An act to amend Sections 22950.5, 22958, ~~and 22962~~, and 22971 of the Business and Professions Code, to amend Section 1947.5 of the Civil Code, to amend Section 48901 of the Education Code, to amend Section 7597 of the Government Code, to amend Sections 1234, 1286, 1530.7, 1596.795, 104495, 113978, 114332.3, 114371, 118910, 118925, 118930, 118935, and 118948 of, and to repeal Section 119405 of, the Health and Safety Code, to amend Section 6404.5 of the Labor Code, to amend Section 308 of the Penal Code, to amend Sections 561 and 99580 of the Public Utilities Code, and to amend Section 12523 of the Vehicle Code, relating to electronic cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as amended, Leno. Electronic cigarettes.

Existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, prohibits a person from selling or otherwise furnishing tobacco products to minors. Existing law permits enforcing agencies to assess various civil penalties for violations of the STAKE Act. Existing law makes it a crime to furnish tobacco products to minors. Existing law also prohibits a person from selling or otherwise furnishing an electronic cigarette to minors, and makes a violation punishable as an infraction.

This bill would change the STAKE Act's definition of tobacco products to include electronic devices, such as electronic cigarettes, that deliver nicotine *or other substances*, and make furnishing such a tobacco product to a minor a misdemeanor.

Existing law, the Cigarette and Tobacco Products Licensing Act of 2003, requires the State Board of Equalization to administer a statewide program to license manufacturers, importers, distributors, wholesalers, and retailers of cigarettes and tobacco products. Under existing law, a violation of this act is a misdemeanor.

This bill would change the act's definition of tobacco products to reflect the STAKE Act's new definition of tobacco products.

Existing law prohibits the smoking of cigarettes and other tobacco products in a variety of specified areas. Under existing law, a violation of some of these prohibitions is punishable as an infraction.

This bill would change the location restrictions for smoking cigarettes and other tobacco products to reflect the STAKE Act's new definition of tobacco products. The bill would make the use of electronic cigarettes in some of these restricted locations a violation punishable as an infraction.

Existing law prohibits the smoking of medical marijuana in any place where smoking is prohibited by law.

This bill would declare that its provisions do not affect any law or regulation regarding medical marijuana.

By expanding the scope of a crime, the bill would impose a state-mandated local program.

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.

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

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

- 1 SECTION 1. Section 22950.5 of the Business and Professions
- 2 Code is amended to read:
- 3 22950.5. For purposes of this division, the following terms
- 4 have the following meanings:
- 5 (a) "Department" means the State Department of Public Health.

1 (b) “Enforcing agency” means the State Department of Public
2 Health, another state agency, including, but not limited to, the
3 office of the Attorney General, or a local law enforcement agency,
4 including, but not limited to, a city attorney, district attorney, or
5 county counsel.

6 (c) (1) “Tobacco product” means any of the following:

7 (A) A product containing, made, or derived from tobacco or
8 nicotine that is intended for human consumption, whether smoked,
9 heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or
10 ingested by any other means, including, but not limited to,
11 cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or
12 snuff.

13 (B) An electronic device that delivers nicotine or other
14 substances to the person inhaling from the device, including, but
15 not limited to, an electronic cigarette, cigar, pipe, or hookah.

16 (C) Any component, part, or accessory of a tobacco product,
17 whether or not sold separately.

18 (2) “Tobacco product” does not include a product that has been
19 approved by the United States Food and Drug Administration for
20 sale as a tobacco cessation product or for other therapeutic purposes
21 where the product is marketed and sold solely for such an approved
22 purpose.

23 SEC. 2. Section 22958 of the Business and Professions Code
24 is amended to read:

25 22958. (a) An enforcing agency may assess civil penalties
26 against any person, firm, or corporation that sells, gives, or in any
27 way furnishes to another person who is under ~~the age of 18 years~~
28 *18 years of age*, any tobacco, cigarette, cigarette papers, any other
29 instrument or paraphernalia that is designed for the smoking or
30 ingestion of tobacco, tobacco products, or any controlled substance,
31 according to the following schedule: (1) a civil penalty of ~~from~~
32 four hundred dollars (\$400) to six hundred dollars (\$600) for the
33 first violation, (2) a civil penalty of ~~from~~ nine hundred dollars
34 (\$900) to one thousand dollars (\$1,000) for the second violation
35 within a five-year period, (3) a civil penalty of ~~from~~ one thousand
36 two hundred dollars (\$1,200) to one thousand eight hundred dollars
37 (\$1,800) for a third violation within a five-year period, (4) a civil
38 penalty of ~~from~~ three thousand dollars (\$3,000) to four thousand
39 dollars (\$4,000) for a fourth violation within a five-year period,
40 or (5) a civil penalty of ~~from~~ five thousand dollars (\$5,000) to six

1 thousand dollars (\$6,000) for a fifth violation within a five-year
2 period.

3 (b) (1) In addition to the civil penalties described in subdivision
4 (a), upon the assessment of a civil penalty for the third, fourth, or
5 fifth violation, the department, within 60 days of the date of service
6 of the final administrative adjudication on the parties or payment
7 of the civil penalty for an uncontested violation, shall notify the
8 State Board of Equalization of the violation. The State Board of
9 Equalization shall then assess a civil penalty of two hundred fifty
10 dollars (\$250) and suspend or revoke a license issued pursuant to
11 Chapter 2 (commencing with Section 22972) of Division 8.6 in
12 accordance with the following schedule:

13 (A) A 45-day suspension of the license for a third violation at
14 the same location within a five-year period.

15 (B) A 90-day suspension of the license for a fourth violation at
16 the same location within a five-year period.

17 (C) Revocation of the license for a fifth violation at the same
18 location within a five-year period.

19 (2) The provisions of Chapter 4 (commencing with Section
20 55121) of Part 30 of Division 2 of the Revenue and Taxation Code
21 apply with respect to the collection of the penalty imposed by the
22 State Board of Equalization pursuant to paragraph (1).

23 (c) (1) For each suspension or revocation pursuant to
24 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)
25 assessed pursuant to that subdivision, notwithstanding Section
26 22953, shall be deposited into the Cigarette and Tobacco Products
27 Compliance Fund established pursuant to Section 22990. Moneys
28 from that civil penalty deposited into this fund shall be made
29 available to the State Board of Equalization, upon appropriation
30 by the Legislature, for the purposes of meeting its duties under
31 subdivision (b).

32 (2) The department shall, upon request, provide to the State
33 Board of Equalization information concerning any person, firm,
34 or corporation that has been assessed a civil penalty for violation
35 of the STAKE Act pursuant to this section when the department
36 has notified the State Board of Equalization of the violation.

37 (d) The enforcing agency shall assess penalties pursuant to the
38 schedule set forth in subdivision (a) against a person, firm, or
39 corporation that sells, offers for sale, or distributes tobacco products
40 from a cigarette or tobacco products vending machine, or a person,

1 firm, or corporation that leases, furnishes, or services these
2 machines in violation of Section 22960.

3 (e) An enforcing agency may assess civil penalties against a
4 person, firm, or corporation that sells or deals in tobacco or any
5 preparation thereof, and fails to post conspicuously and keep posted
6 in the place of business at each point of purchase the notice
7 required pursuant to subdivision (b) of Section 22952. The civil
8 penalty shall be in the amount of two hundred dollars (\$200) for
9 the first offense and five hundred dollars (\$500) for each additional
10 violation.

11 (f) An enforcing agency shall assess penalties in accordance
12 with the schedule set forth in subdivision (a) against a person, firm,
13 or corporation that advertises or causes to be advertised a tobacco
14 product on an outdoor billboard in violation of Section 22961.

15 (g) If a civil penalty has been assessed pursuant to this section
16 against a person, firm, or corporation for a single, specific violation
17 of this division, the person, firm, or corporation shall not be
18 prosecuted under Section 308 of the Penal Code for a violation
19 based on the same facts or specific incident for which the civil
20 penalty was assessed. If a person, firm, or corporation has been
21 prosecuted for a single, specific violation of Section 308 of the
22 Penal Code, the person, firm, or corporation shall not be assessed
23 a civil penalty under this section based on the same facts or specific
24 incident upon which the prosecution under Section 308 of the Penal
25 Code was based.

26 (h) (1) In the case of a corporation or business with more than
27 one retail location, to determine the number of accumulated
28 violations for purposes of the penalty schedule set forth in
29 subdivision (a), violations of this division by one retail location
30 shall not be accumulated against other retail locations of that same
31 corporation or business.

32 (2) In the case of a retail location that operates pursuant to a
33 franchise as defined in Section 20001, violations of this division
34 accumulated and assessed against a prior owner of a single
35 franchise location shall not be accumulated against a new owner
36 of the same single franchise location for purposes of the penalty
37 schedule set forth in subdivision (a).

38 (i) Proceedings under this section shall be conducted pursuant
39 to Section 131071 of the Health and Safety Code, except in cases
40 where a civil penalty is assessed by an enforcing agency other than

1 the department, in which case proceedings shall be conducted
2 pursuant to the procedures of that agency that are consistent with
3 Section 131071 of the Health and Safety Code.

4 SEC. 3. Section 22962 of the Business and Professions Code
5 is amended to read:

6 22962. (a) For purposes of this section, the following terms
7 have the following meanings:

8 (1) "Self-service display" means the open display of tobacco
9 products or tobacco paraphernalia in a manner that is accessible
10 to the general public without the assistance of the retailer or
11 employee of the retailer.

12 (2) "Tobacco paraphernalia" means cigarette papers or wrappers,
13 blunt wraps as defined in Section 308 of the Penal Code, pipes,
14 holders of smoking materials of all types, cigarette rolling
15 machines, or other instruments or things designed for the smoking
16 or ingestion of tobacco products.

17 (3) "Tobacco product" means a product or device as defined in
18 subdivision (c) of Section 22950.5 of the Business and Professions
19 Code.

20 (4) "Tobacco store" means a retail business that meets all of the
21 following requirements:

22 (A) Primarily sells tobacco products.

23 (B) Generates more than 60 percent of its gross revenues
24 annually from the sale of tobacco products and tobacco
25 paraphernalia.

26 (C) Does not permit any person under 18 years of age to be
27 present or enter the premises at any time, unless accompanied by
28 the person's parent or legal guardian, as defined in Section 6903
29 of the Family Code.

30 (D) Does not sell alcoholic beverages or food for consumption
31 on the premises.

32 (b) (1) (A) Except as permitted in subdivision (b) of Section
33 22960, it is unlawful for a person engaged in the retail sale of
34 tobacco products to sell, offer for sale, or display for sale any
35 tobacco product or tobacco paraphernalia by self-service display.
36 A person who violates this section is subject to those civil penalties
37 specified in the schedule in subdivision (a) of Section 22958.

38 (B) A person who violates this section is subject to those civil
39 penalties specified in the schedule in subdivision (a) of Section
40 22958.

1 (2) It is unlawful for a person engaged in the retail sale of blunt
2 wraps to place or maintain, or to cause to be placed or maintained,
3 any blunt wraps advertising display within two feet of candy,
4 snack, or nonalcoholic beverage displayed inside any store or
5 business.

6 (3) It is unlawful for any person or business to place or maintain,
7 or cause to be placed or maintained, any blunt wrap advertising
8 display that is less than four feet above the floor.

9 (c) Subdivision (b) shall not apply to the display in a tobacco
10 store of cigars, pipe tobacco, snuff, chewing tobacco, or dipping
11 tobacco, provided that in the case of cigars they are generally not
12 sold or offered for sale in a sealed package of the manufacturer or
13 importer containing less than six cigars. In any enforcement action
14 brought pursuant to this division, the retail business that displays
15 any of the items described in this subdivision in a self-service
16 display shall have the burden of proving that it qualifies for the
17 exemption established in this subdivision.

18 (d) The Attorney General, a city attorney, a county counsel, or
19 a district attorney may bring a civil action to enforce this section.

20 (e) This section does not preempt or otherwise prohibit the
21 adoption of a local standard that imposes greater restrictions on
22 the access to tobacco products than the restrictions imposed by
23 this section. To the extent that there is an inconsistency between
24 this section and a local standard that imposes greater restrictions
25 on the access to tobacco products, the greater restriction on the
26 access to tobacco products in the local standard shall prevail.

27 *SEC. 4. Section 22971 of the Business and Professions Code*
28 *is amended to read:*

29 22971. For purposes of this division, the following terms shall
30 have the following meanings:

31 (a) "Board" means the State Board of Equalization.

32 (b) "Brand family" has the same meaning as that term is defined
33 in paragraph (2) of subdivision (a) of Section 30165.1 of the
34 Revenue and Taxation Code.

35 (c) "Cigarette" means a cigarette as defined in Section 30003
36 of the Revenue and Taxation Code.

37 (d) (1) "Control" or "controlling" means possession, direct or
38 indirect, of the power:

39 (A) To vote 25 percent or more of any class of the voting
40 securities issued by a person.

1 (B) To direct or cause the direction of the management and
2 policies of a person, whether through the ownership of voting
3 securities, by contract, other than a commercial contract for goods
4 or nonmanagement services, or as otherwise provided; however,
5 no individual shall be deemed to control a person solely on account
6 of being a director, officer, or employee of that person.

7 (2) For purposes of subparagraph (B) of paragraph (1), a person
8 who, directly or indirectly, owns, controls, holds, with the power
9 to vote, or holds proxies representing 10 percent or more of the
10 then outstanding voting securities issued by another person, is
11 presumed to control that other person.

12 (3) For purposes of this division, the board may determine
13 whether a person in fact controls another person.

14 (e) “Display for sale” means the placement of cigarettes or
15 tobacco products in a vending machine or in retail stock for the
16 purpose of selling or gifting the cigarettes or tobacco products.
17 For purposes of this definition, the clear and easily visible display
18 of cigarettes or tobacco products shall create a rebuttable
19 presumption that either were displayed for sale.

20 (f) “Distributor” means a distributor as defined in Section 30011
21 of the Revenue and Taxation Code.

22 (g) “Gifting” means any transfer of title or possession without
23 consideration, exchange, or barter, in any manner or by any means,
24 of cigarettes or tobacco products that have been purchased for
25 resale under a license issued pursuant to this division if the transfer
26 occurs while the license is suspended or after the effective date of
27 its revocation.

28 (h) “Importer” means an importer as defined in Section 30019
29 of the Revenue and Taxation Code.

30 (i) “Law enforcement agency” means a sheriff, a police
31 department, or a city, county, or city and county agency or
32 department designated by the governing body of that agency to
33 enforce this chapter or to enforce local smoking and tobacco
34 ordinances and regulations.

35 (j) “License” means a license issued by the board pursuant to
36 this division.

37 (k) “Licensee” means any person holding a license issued by
38 the board pursuant to this division.

39 (l) “Manufacturer” means a manufacturer of cigarettes or
40 tobacco products sold in this state.

1 (m) “Notice” or “notification” means, unless as otherwise
2 provided, the written notice or notification provided to a licensee
3 by the board by either actual delivery to the licensee or by
4 first-class mail addressed to the licensee at the address on the
5 license.

6 (n) “Package of cigarettes” means a package as defined in
7 Section 30015 of the Revenue and Taxation Code.

8 (o) “Person” means a person as defined in Section 30010 of the
9 Revenue and Taxation Code.

10 (p) “Retailer” means a person who engages in this state in the
11 sale of cigarettes or tobacco products directly to the public from
12 a retail location. Retailer includes a person who operates vending
13 machines from which cigarettes or tobacco products are sold in
14 this state.

15 (q) “Retail location” means both of the following:

16 (1) Any building from which cigarettes or tobacco products are
17 sold at retail.

18 (2) A vending machine.

19 (r) “Sale” or “sold” means a sale as defined in Section 30006
20 of the Revenue and Taxation Code.

21 (s) “Tobacco products” means ~~tobacco products as defined in~~
22 ~~subdivision (b) of Section 30121 and subdivision (b) of Section~~
23 ~~30131.1 of the Revenue and Taxation Code~~ *a product or device*
24 *as defined in subdivision (c) of Section 22950.5.*

25 (t) “Unstamped package of cigarettes” means a package of
26 cigarettes that does not bear a tax stamp as required under Part 13
27 (commencing with Section 30001) of Division 2 of the Revenue
28 and Taxation Code, including a package of cigarettes that bears a
29 tax stamp of another state or taxing jurisdiction, a package of
30 cigarettes that bears a counterfeit tax stamp, or a stamped or
31 unstamped package of cigarettes that is marked “Not for sale in
32 the United States.”

33 (u) “Wholesaler” means a wholesaler as defined in Section
34 30016 of the Revenue and Taxation Code.

35 ~~SEC. 4.~~

36 *SEC. 5.* Section 1947.5 of the Civil Code is amended to read:

37 1947.5. (a) A landlord of a residential dwelling unit, as defined
38 in Section 1940, or his or her agent, may prohibit the smoking of
39 a cigarette, as defined in Section 104556 of the Health and Safety
40 Code, or other tobacco product on the property or in any building

1 or portion of the building, including any dwelling unit, other
2 interior or exterior area, or the premises on which it is located, in
3 accordance with this article.

4 (b) (1) Every lease or rental agreement entered into on or after
5 January 1, 2012, for a residential dwelling unit on property on any
6 portion of which the landlord has prohibited the smoking of
7 cigarettes or other tobacco products pursuant to this article shall
8 include a provision that specifies the areas on the property where
9 smoking is prohibited, if the lessee has not previously occupied
10 the dwelling unit.

11 (2) For a lease or rental agreement entered into before January
12 1, 2012, a prohibition against the smoking of cigarettes or other
13 tobacco products in any portion of the property in which smoking
14 was previously permitted shall constitute a change of the terms of
15 tenancy, requiring adequate notice in writing, to be provided in
16 the manner prescribed in Section 827.

17 (c) A landlord who exercises the authority provided in
18 subdivision (a) to prohibit smoking shall be subject to federal,
19 state, and local requirements governing changes to the terms of a
20 lease or rental agreement for tenants with leases or rental
21 agreements that are in existence at the time that the policy limiting
22 or prohibiting smoking is adopted.

23 (d) This section shall not be construed to preempt any local
24 ordinance in effect on or before January 1, 2012, or any provision
25 of a local ordinance in effect on or after January 1, 2012, that
26 restricts the smoking of cigarettes or other tobacco products.

27 (e) A limitation or prohibition of the use of any tobacco product
28 shall not affect any other term or condition of the tenancy, nor
29 shall this section be construed to require statutory authority to
30 establish or enforce any other lawful term or condition of the
31 tenancy.

32 (f) For purposes of this section, "tobacco product" means a
33 product or device as defined in subdivision (c) of Section 22950.5
34 of the Business and Professions Code.

35 ~~SEC. 5.~~

36 *SEC. 6.* Section 48901 of the Education Code is amended to
37 read:

38 48901. (a) No school shall permit the smoking or use of a
39 tobacco product by pupils of the school while the pupils are on

1 campus, or while attending school-sponsored activities or while
2 under the supervision and control of school district employees.

3 (b) The governing board of any school district maintaining a
4 high school shall take all steps it deems practical to discourage
5 high school students from smoking.

6 (c) For purposes of this section, "tobacco product" means a
7 product or device as defined in subdivision (c) of Section 22950.5
8 of the Business and Professions Code.

9 ~~SEC. 6.~~

10 *SEC. 7.* Section 7597 of the Government Code is amended to
11 read:

12 7597. (a) No public employee or member of the public shall
13 smoke a tobacco product inside a public building, or in an outdoor
14 area within 20 feet of a main exit, entrance, or operable window
15 of a public building, or in a passenger vehicle, as defined by
16 Section 465 of the Vehicle Code, owned by the state.

17 (b) This section shall not preempt the authority of any county,
18 city, city and county, California Community College campus,
19 campus of the California State University, or campus of the
20 University of California to adopt and enforce additional smoking
21 and tobacco control ordinances, regulations, or policies that are
22 more restrictive than the applicable standards required by this
23 chapter.

24 (c) For purposes of this section, "tobacco product" means a
25 product or device as defined in subdivision (c) of Section 22950.5
26 of the Business and Professions Code.

27 ~~SEC. 7.~~

28 *SEC. 8.* Section 1234 of the Health and Safety Code is amended
29 to read:

30 1234. (a) Smoking a tobacco product shall not be permitted
31 in patient areas of a clinic except those rooms designated for
32 occupancy exclusively by smokers.

33 (b) Clearly legible signs shall either:

34 (1) State that smoking is unlawful and be conspicuously posted
35 by, or on behalf of, the owner or manager of such clinic, in all
36 areas of a clinic where smoking is unlawful.

37 (2) Identify "smoking permitted" areas, and be posted by, or
38 on behalf of, the owner or manager of such clinic, only in areas of
39 a clinic where smoking is lawfully permitted.

1 If “smoking permitted” signs are posted, there shall also be
2 conspicuously posted, near all major entrances, clearly legible
3 signs stating that smoking is unlawful except in areas designated
4 “smoking permitted.”

5 (c) This section shall not apply to skilled nursing facilities,
6 intermediate care facilities, and intermediate care facilities for the
7 developmentally disabled.

8 (d) For purposes of this section, “tobacco product” means a
9 product or device as defined in subdivision (c) of Section 22950.5
10 of the Business and Professions Code.

11 ~~SEC. 8.~~

12 *SEC. 9.* Section 1286 of the Health and Safety Code is amended
13 to read:

14 1286. (a) Smoking a tobacco product shall be prohibited in
15 patient care areas, waiting rooms, and visiting rooms of a health
16 facility, except those areas specifically designated as smoking
17 areas, and in patient rooms as specified in subdivision (b).

18 (b) Smoking a tobacco product shall not be permitted in a
19 patient room unless all persons assigned to the room have requested
20 a room where smoking is permitted. In the event that the health
21 facility occupancy has reached capacity, the health facility shall
22 have reasonable time to reassign patients to appropriate rooms.

23 (c) Clearly legible signs shall either:

24 (1) State that smoking is unlawful and be conspicuously posted
25 by, or on behalf of, the owner or manager of the health facility, in
26 all areas of a health facility where smoking is unlawful, or

27 (2) Identify “smoking permitted” areas, and be posted by, or
28 on behalf of, the owner or manager of the health facility, only in
29 areas of the health facility where smoking is lawfully permitted.

30 If “smoking permitted” signs are posted, there shall also be
31 conspicuously posted, near all major entrances, clearly legible
32 signs stating that smoking is unlawful except in areas designated
33 “smoking permitted.”

34 (d) No signs pertaining to smoking are required to be posted
35 in patient rooms.

36 (e) This section shall not apply to skilled nursing facilities,
37 intermediate care facilities, and intermediate care facilities for the
38 developmentally disabled.

1 (f) For purposes of this section, “tobacco product” means a
2 product or device as defined in subdivision (c) of Section 22950.5
3 of the Business and Professions Code.

4 ~~SEC. 9.~~

5 *SEC. 10.* Section 1530.7 of the Health and Safety Code is
6 amended to read:

7 1530.7. (a) Group homes, foster family agencies, small family
8 homes, transitional housing placement providers, and crisis
9 nurseries licensed pursuant to this chapter shall maintain a
10 smoke-free environment in the facility.

11 (b) A person who is licensed or certified pursuant to this chapter
12 to provide residential care in a foster family home or certified
13 family home shall not smoke a tobacco product or permit any other
14 person to smoke a tobacco product inside the facility, and, when
15 the child is present, on the outdoor grounds of the facility.

16 (c) A person who is licensed or certified pursuant to this chapter
17 to provide residential foster care shall not smoke a tobacco product
18 in any motor vehicle that is regularly used to transport the child.

19 (d) For purposes of this section, “tobacco product” means a
20 product or device as defined in subdivision (c) of Section 22950.5
21 of the Business and Professions Code.

22 ~~SEC. 10.~~

23 *SEC. 11.* Section 1596.795 of the Health and Safety Code is
24 amended to read:

25 1596.795. (a) The smoking of a tobacco product in a private
26 residence that is licensed as a family day care home shall be
27 prohibited in the home and in those areas of the family day care
28 home where children are present. Nothing in this section shall
29 prohibit a city or county from enacting or enforcing an ordinance
30 relating to smoking in a family day care home if the ordinance is
31 more stringent than this section.

32 (b) The smoking of a tobacco product on the premises of a
33 licensed day care center shall be prohibited.

34 (c) For purposes of this section, “tobacco product” means a
35 product or device as defined in subdivision (c) of Section 22950.5
36 of the Business and Professions Code.

37 ~~SEC. 11.~~

38 *SEC. 12.* Section 104495 of the Health and Safety Code is
39 amended to read:

1 104495. (a) For the purposes of this section, the following
2 definitions shall govern:

3 (1) "Playground" means any park or recreational area
4 specifically designed to be used by children that has play equipment
5 installed, or any similar facility located on public or private school
6 grounds, or on city, county, or state park grounds.

7 (2) "Tot lot sandbox area" means a designated play area within
8 a public park for the use by children under five years of age. Where
9 the area is not contained by a fence, the boundary of a tot lot
10 sandbox area shall be defined by the edge of the resilient surface
11 of safety material, such as concrete or wood, or any other material
12 surrounding the tot lot sandbox area.

13 (3) "Public park" includes a park operated by a public agency.

14 (4) "Smoke or smoking" means the carrying of a lighted pipe,
15 lighted cigar, or lighted cigarette of any kind, or the lighting of a
16 pipe, cigar, or cigarette of any kind, including, but not limited to,
17 tobacco, or any other weed or plant.

18 (5) "Cigarette" means the same as defined in Section 104556.

19 (6) "Cigar" means the same as defined in Section 104550.

20 (7) "Tobacco product" means a product or device as defined in
21 subdivision (c) of Section 22950.5 of the Business and Professions
22 Code.

23 (b) No person shall smoke a cigarette, cigar, or other tobacco
24 product within 25 feet of any playground or tot lot sandbox area.

25 (c) No person shall dispose of cigarette butts, cigar butts, or
26 any other tobacco-related waste within 25 feet of a playground or
27 a tot lot sandbox area.

28 (d) No person shall intimidate, threaten any reprisal, or effect
29 any reprisal, for the purpose of retaliating against another person
30 who seeks to attain compliance with this section.

31 (e) Any person who violates this section is guilty of an
32 infraction and shall be punished by a fine of two hundred fifty
33 dollars (\$250) for each violation of this section. Punishment under
34 this section shall not preclude punishment pursuant to Section
35 13002, Section 374.4 of the Penal Code, or any other provision of
36 law proscribing the act of littering.

37 (f) The prohibitions contained in subdivisions (b), (c), and (d)
38 shall not apply to private property.

1 (g) The prohibitions contained in subdivisions (b) and (c) shall
2 not apply to a public sidewalk located within 25 feet of a
3 playground or a tot lot sandbox area.

4 (h) This section shall not preempt the authority of any county,
5 city, or city and county to regulate smoking around playgrounds
6 or tot lot sandbox areas. Any county, city, or city and county may
7 enforce any ordinance adopted prior to January 1, 2002, or may
8 adopt and enforce new regulations that are more restrictive than
9 this section, on and after January 1, 2002.

10 ~~SEC. 12.~~

11 *SEC. 13.* Section 113978 of the Health and Safety Code is
12 amended to read:

13 113978. (a) Food facilities shall have a “no smoking tobacco
14 products” sign posted in the food preparation, food storage, and
15 warewashing areas.

16 (b) For purposes of this section, “tobacco product” means a
17 product or device as defined in subdivision (c) of Section 22950.5
18 of the Business and Professions Code.

19 ~~SEC. 13.~~

20 *SEC. 14.* Section 114332.3 of the Health and Safety Code is
21 amended to read:

22 114332.3. (a) No potentially hazardous food or beverage stored
23 or prepared in a private home may be offered for sale, sold, or
24 given away from a nonprofit charitable temporary food facility.
25 Potentially hazardous food shall be prepared in a food
26 establishment or on the premises of a nonprofit charitable
27 temporary food facility.

28 (b) All food and ~~beverage~~ *beverages* shall be protected at all
29 times from unnecessary handling and shall be stored, displayed,
30 and served so as to be protected from contamination.

31 (c) Potentially hazardous food and ~~beverage~~ *beverages* shall be
32 maintained at or below 7 degrees Celsius (45 degrees Fahrenheit)
33 or at or above 57.2 degrees Celsius (135 degrees Fahrenheit) at all
34 times.

35 (d) Ice used in beverages shall be protected from contamination
36 and shall be maintained separate from ice used for refrigeration
37 purposes.

38 (e) All food and food containers shall be stored off the floor on
39 shelving or pallets located within the facility.

1 (f) Smoking a tobacco product is prohibited in nonprofit
2 charitable temporary food facilities.

3 (g) (1) Except as provided in paragraph (2), live animals, birds,
4 or fowl shall not be kept or allowed in nonprofit charitable
5 temporary food facilities.

6 (2) Paragraph (1) does not prohibit the presence, in any room
7 where food is served to the public, guests, or patrons, of a guide
8 dog, signal dog, or service dog, as defined by Section 54.1 of the
9 Civil Code, accompanied by a totally or partially blind person,
10 deaf person, person whose hearing is impaired, or handicapped
11 person, or dogs accompanied by persons licensed to train guide
12 dogs for the blind pursuant to Chapter 9.5 (commencing with
13 Section 7200) of Division 3 of the Business and Professions Code.

14 (3) Paragraph (1) does not apply to dogs under the control of
15 uniformed law enforcement officers or of uniformed employees
16 of private patrol operators and operators of a private patrol service
17 who are licensed pursuant to Chapter 11.5 (commencing with
18 Section 7580) of Division 3 of the Business and Professions Code,
19 while these employees are acting within the course and scope of
20 their employment as private patrol persons.

21 (4) The persons and operators described in paragraphs (2) and
22 (3) are liable for any damage done to the premises or facilities by
23 the dog.

24 (5) The dogs described in paragraphs (2) and (3) shall be
25 excluded from food preparation and utensil wash areas. Aquariums
26 and aviaries shall be allowed if enclosed so as not to create a public
27 health problem.

28 (h) All garbage shall be disposed of in a sanitary manner.

29 (i) Employees preparing or handling food shall wear clean
30 clothing and shall keep their hands clean at all times.

31 (j) For purposes of this section, "tobacco product" means a
32 product or device as defined in subdivision (c) of Section 22950.5
33 of the Business and Professions Code.

34 ~~SEC. 14.~~

35 *SEC. 15.* Section 114371 of the Health and Safety Code is
36 amended to read:

37 114371. Certified farmers' markets shall meet all of the
38 following requirements:

39 (a) All food shall be stored at least six inches off the floor or
40 ground or under any other conditions that are approved. Tents,

1 canopies, or other overhead coverings are not required for fresh
2 whole produce sales displays or storage, except when specifically
3 required pursuant to this chapter. Flavored nuts and dried fruits
4 that are being sold on a bulk or nonprepackaged basis shall be
5 displayed and dispensed by the producer from covered containers.
6 All processed food products being sold shall be in compliance with
7 Section 113735 and the applicable provisions of Section 110460,
8 114365, or 114365.2.

9 (b) Food preparation is prohibited at certified farmers' markets
10 with the exception of food samples. Trimming whole produce for
11 sale shall not be considered food preparation. Distribution of food
12 samples may occur provided that the following sanitary conditions
13 exist:

14 (1) Samples shall be kept in clean, nonabsorbent, and covered
15 containers intended by the manufacturer for use with foods. Any
16 cutting or distribution of samples shall only occur under a tent,
17 canopy, or other overhead covering.

18 (2) All food samples shall be distributed by the producer in a
19 manner that is sanitary and in which each sample is distributed
20 without the possibility of a consumer touching the remaining
21 samples.

22 (3) Clean, disposable plastic gloves shall be used when cutting
23 food samples.

24 (4) Fresh, whole produce intended for sampling shall be washed
25 or cleaned in another manner of any soil or other material by
26 potable water in order that it is wholesome and safe for
27 consumption.

28 (5) Notwithstanding Section 114205, available potable water
29 may be required for handwashing and sanitizing; the need
30 determined and manner approved by the enforcement agency.

31 (6) Potentially hazardous food samples shall be maintained at
32 or below ~~45°F~~ *45 degrees Fahrenheit* and shall be disposed of
33 within two hours after cutting. A certified farmers' market or an
34 enforcement officer may cause immediate removal and disposal,
35 or confiscate and destroy, any potentially hazardous food samples
36 found not in compliance with this paragraph.

37 (7) Wastewater shall be disposed of in a facility connected to
38 the public sewer system or in a manner approved by the
39 enforcement agency.

1 (8) Utensils and cutting surfaces shall be smooth, nonabsorbent,
2 and easily cleanable, or single-use articles shall be utilized. If the
3 producer uses only single-use articles or maintains an adequate
4 supply of clean replacement articles readily available at the site at
5 the time of use, warewashing facilities shall not be required.

6 (c) Approved toilet and handwashing facilities shall be available
7 within 200 feet travel distance of the premises of the certified
8 farmers' market or as approved by the enforcement officer.

9 (d) No live animals, birds, or fowl shall be kept or allowed, and
10 no individual shall bring a live animal, bird, or fowl, within 20
11 feet of any area where food is stored or held for sale within a
12 certified farmers' market. This subdivision does not apply to guide
13 dogs, signal dogs, or service dogs when used in accordance with
14 the federal Americans with Disabilities Act of 1990 (42 U.S.C.
15 Sec. 12101 et seq.), and as provided in Section 36.104 of Title 28
16 of the Code of Federal Regulations. All guide dogs, signal dogs,
17 and service dogs shall be used and properly identified in accordance
18 with Section 54.1 and subdivision (b) of Section 54.2 of the Civil
19 Code, and Sections 30850, 30851, and 30852 of the Food and
20 Agricultural Code.

21 (e) All garbage and refuse shall be stored and disposed of in a
22 manner approved by the enforcement officer.

23 (f) Smoking of cigarettes, cigars, pipe tobacco, and other tobacco
24 products shall not be permitted within 25 feet of the common
25 commerce area comprised of sales personnel and shopping
26 customers of the certified farmers' market.

27 (g) Notwithstanding Chapter 10 (commencing with Section
28 114294) vendors selling food adjacent to, and under the jurisdiction
29 and management of, a certified farmers' market may store, display,
30 and sell from a table or display fixture apart from the mobile
31 facility in a manner approved by the enforcement agency.

32 (h) Temporary food facilities may be operated at a separate
33 community event adjacent to, and in conjunction with, certified
34 farmers' markets. The organization in control of the community
35 event at which these temporary food facilities operate shall comply
36 with Section 114381.1.

37 (i) All harvested, cut, wrapped, or otherwise processed meat,
38 poultry, and fish products shall be from approved sources as set
39 forth in Section 113735, and shall be properly labeled or have
40 documentation present at the point of sale that demonstrates

1 compliance with this requirement. All harvested, cut, wrapped, or
2 otherwise processed meat, poultry, and fish products offered for
3 sale shall be transported, stored, displayed, and maintained at a
4 temperature of ~~41° F~~ *41 degrees Fahrenheit* or colder. The
5 temperature holding capabilities of the storage containers used
6 shall be sufficient to maintain safe product temperatures. Storage
7 containers for meat, poultry, and fish products shall be insulated
8 and have interior surfaces that are smooth, nonabsorbent, and easily
9 cleanable. All meat, poultry, and fish products shall be stored in
10 a manner that reduces the risk of cross-contamination.

11 (j) For purposes of this section, “tobacco product” means a
12 product or device as defined in subdivision (c) of Section 22950.5
13 of the Business and Professions Code.

14 ~~SEC. 15.~~

15 *SEC. 16.* Section 118910 of the Health and Safety Code is
16 amended to read:

17 118910. (a) The Legislature declares its intent not to preempt
18 the field of regulation of the smoking of tobacco products. A local
19 governing body may ban completely the smoking of tobacco
20 products, or may regulate smoking of tobacco products in any
21 manner not inconsistent with this article and Article 3 (commencing
22 with Section 118920) or any other provision of state law.

23 (b) For purposes of this section, “tobacco product” means a
24 product or device as defined in subdivision (c) of Section 22950.5
25 of the Business and Professions Code.

26 ~~SEC. 16.~~

27 *SEC. 17.* Section 118925 of the Health and Safety Code is
28 amended to read:

29 118925. (a) It is unlawful for any person to smoke a tobacco
30 product or any other plant product in any vehicle of a passenger
31 stage corporation, the National Railroad Passenger Corporation
32 (Amtrak) except to the extent permitted by federal law, in any
33 aircraft except to the extent permitted by federal law, on a public
34 transportation system, as defined by Section 99211 of the Public
35 Utilities Code, or in any vehicle of an entity receiving any transit
36 assistance from the state.

37 (b) For purposes of this section, “tobacco product” means a
38 product or device as defined in subdivision (c) of Section 22950.5
39 of the Business and Professions Code.

1 ~~SEC. 17.~~

2 *SEC. 18.* Section 118930 of the Health and Safety Code is
3 amended to read:

4 118930. (a) A notice prohibiting smoking tobacco products,
5 displayed as a symbol and in English, shall be posted in each
6 vehicle or aircraft subject to this article.

7 (b) For purposes of this section, “tobacco product” means a
8 product or device as defined in subdivision (c) of Section 22950.5
9 of the Business and Professions Code.

10 ~~SEC. 18.~~

11 *SEC. 19.* Section 118935 of the Health and Safety Code is
12 amended to read:

13 118935. (a) Every person and public agency providing
14 transportation services for compensation, including, but not limited
15 to, the National Railroad Passenger Corporation (Amtrak) to the
16 extent permitted by federal law, passenger stage corporations, and
17 local agencies that own or operate airports, shall designate and
18 post, by signs of sufficient number and posted in locations that
19 may be readily seen by persons within the area, a contiguous area
20 of not less than 75 percent of any area made available by the person
21 or public agency as a waiting room for these passengers where the
22 smoking of tobacco products is prohibited. Not more than 25
23 percent of any given area may be set aside for smokers of tobacco
24 products.

25 (b) Every person or public agency subject to subdivision (a)
26 shall also post, by sign of sufficient number and posted in locations
27 as to be readily seen by persons within the area of any building
28 where tickets, tokens, or other evidences that a fare has been paid
29 for transportation services that are provided by the person or public
30 agency, a notice that the smoking of tobacco products by persons
31 waiting in line to purchase the tickets, tokens, or other evidences
32 that a fare has been paid is prohibited.

33 (c) It is unlawful for any person to smoke tobacco products in
34 an area posted pursuant to this section.

35 (d) For purposes of this section, “tobacco product” means a
36 product or device as defined in subdivision (c) of Section 22950.5
37 of the Business and Professions Code.

38 ~~SEC. 19.~~

39 *SEC. 20.* Section 118948 of the Health and Safety Code is
40 amended to read:

1 118948. (a) It is unlawful for a person to smoke a tobacco
2 product in a motor vehicle, whether in motion or at rest, in which
3 there is a minor.

4 (b) For purposes of this section, “to smoke” means to have in
5 one’s immediate possession a lighted pipe, cigar, or cigarette
6 containing tobacco or any other plant.

7 (c) For purposes of this section, “tobacco product” means a
8 product or device as defined in subdivision (c) of Section 22950.5
9 of the Business and Professions Code.

10 (d) A violation of this section is an infraction punishable by a
11 fine not exceeding one hundred dollars (\$100) for each violation.

12 ~~SEC. 20.~~

13 *SEC. 21.* Section 119405 of the Health and Safety Code is
14 repealed.

15 ~~SEC. 21.~~

16 *SEC. 22.* Section 6404.5 of the Labor Code is amended to read:

17 6404.5. (a) The Legislature finds and declares that regulation
18 of smoking in the workplace is a matter of statewide interest and
19 concern. It is the intent of the Legislature in enacting this section
20 to prohibit the smoking of tobacco products in all (100 percent of)
21 enclosed places of employment in this state, as covered by this
22 section, thereby eliminating the need of local governments to enact
23 workplace smoking restrictions within their respective jurisdictions.
24 It is further the intent of the Legislature to create a uniform
25 statewide standard to restrict and prohibit the smoking of tobacco
26 products in enclosed places of employment, as specified in this
27 section, in order to reduce employee exposure to environmental
28 tobacco smoke to a level that will prevent anything other than
29 insignificantly harmful effects to exposed employees, and also to
30 eliminate the confusion and hardship that can result from enactment
31 or enforcement of disparate local workplace smoking restrictions.
32 Notwithstanding any other provision of this section, it is the intent
33 of the Legislature that any area not defined as a “place of
34 employment” pursuant to subdivision (d) or in which the smoking
35 of tobacco products is not regulated pursuant to subdivision (e)
36 shall be subject to local regulation of smoking of tobacco products.

37 (b) No employer shall knowingly or intentionally permit, and
38 no person shall engage in, the smoking of tobacco products in an
39 enclosed space at a place of employment. “Enclosed space”
40 includes lobbies, lounges, waiting areas, elevators, stairwells, and

1 restrooms that are a structural part of the building and not
2 specifically defined in subdivision (d).

3 (c) For purposes of this section, an employer who permits any
4 nonemployee access to his or her place of employment on a regular
5 basis has not acted knowingly or intentionally in violation of this
6 section if he or she has taken the following reasonable steps to
7 prevent smoking by a nonemployee:

8 (1) Posted clear and prominent signs, as follows:

9 (A) Where smoking is prohibited throughout the building or
10 structure, a sign stating "No smoking" shall be posted at each
11 entrance to the building or structure.

12 (B) Where smoking is permitted in designated areas of the
13 building or structure, a sign stating "Smoking is prohibited except
14 in designated areas" shall be posted at each entrance to the building
15 or structure.

16 (2) Has requested, when appropriate, that a nonemployee who
17 is smoking refrain from smoking in the enclosed workplace.

18 For purposes of this subdivision, "reasonable steps" does not
19 include (A) the physical ejection of a nonemployee from the place
20 of employment or (B) any requirement for making a request to a
21 nonemployee to refrain from smoking, under circumstances
22 involving a risk of physical harm to the employer or any employee.

23 (d) For purposes of this section, "place of employment" does
24 not include any of the following:

25 (1) Sixty-five percent of the guestroom accommodations in a
26 hotel, motel, or similar transient lodging establishment.

27 (2) Areas of the lobby in a hotel, motel, or other similar transient
28 lodging establishment designated for smoking by the establishment.
29 An establishment may permit smoking in a designated lobby area
30 that does not exceed 25 percent of the total floor area of the lobby
31 or, if the total area of the lobby is 2,000 square feet or less, that
32 does not exceed 50 percent of the total floor area of the lobby. For
33 purposes of this paragraph, "lobby" means the common public
34 area of an establishment in which registration and other similar or
35 related transactions, or both, are conducted and in which the
36 establishment's guests and members of the public typically
37 congregate.

38 (3) Meeting and banquet rooms in a hotel, motel, other transient
39 lodging establishment similar to a hotel or motel, restaurant, or
40 public convention center, except while food or beverage functions

1 are taking place, including setup, service, and cleanup activities,
2 or when the room is being used for exhibit purposes. At times
3 when smoking is not permitted in a meeting or banquet room
4 pursuant to this paragraph, the establishment may permit smoking
5 in corridors and prefunction areas adjacent to and serving the
6 meeting or banquet room if no employee is stationed in that
7 corridor or area on other than a passing basis.

8 (4) Retail or wholesale tobacco shops and private smokers'
9 lounges. For purposes of this paragraph:

10 (A) "Private smokers' lounge" means any enclosed area in or
11 attached to a retail or wholesale tobacco shop that is dedicated to
12 the use of tobacco products, including, but not limited to, cigars
13 and pipes.

14 (B) "Retail or wholesale tobacco shop" means any business
15 establishment the main purpose of which is the sale of tobacco
16 products, including, but not limited to, cigars, pipe tobacco, and
17 smoking accessories.

18 (5) Cabs of motortrucks, as defined in Section 410 of the Vehicle
19 Code, or truck tractors, as defined in Section 655 of the Vehicle
20 Code, if no nonsmoking employees are present.

21 (6) Warehouse facilities. For purposes of this paragraph,
22 "warehouse facility" means a warehouse facility with more than
23 100,000 square feet of total floorspace, and 20 or fewer full-time
24 employees working at the facility, but does not include any area
25 within a facility that is utilized as office space.

26 (7) Gaming clubs, in which smoking is permitted by subdivision
27 (f). For purposes of this paragraph, "gaming club" means any
28 gaming club, as defined in Section 19802 of the Business and
29 Professions Code, or bingo facility, as defined in Section 326.5 of
30 the Penal Code, that restricts access to minors under 18 years of
31 age.

32 (8) Bars and taverns, in which smoking is permitted by
33 subdivision (f). For purposes of this paragraph, "bar" or "tavern"
34 means a facility primarily devoted to the serving of alcoholic
35 beverages for consumption by guests on the premises, in which
36 the serving of food is incidental. "Bar or tavern" includes those
37 facilities located within a hotel, motel, or other similar transient
38 occupancy establishment. However, when located within a building
39 in conjunction with another use, including a restaurant, "bar" or
40 "tavern" includes only those areas used primarily for the sale and

1 service of alcoholic beverages. “Bar” or “tavern” does not include
2 the dining areas of a restaurant, regardless of whether alcoholic
3 beverages are served therein.

4 (9) Theatrical production sites, if smoking is an integral part of
5 the story in the theatrical production.

6 (10) Medical research or treatment sites, if smoking is integral
7 to the research and treatment being conducted.

8 (11) Private residences, except for private residences licensed
9 as family day care homes, where smoking is prohibited pursuant
10 to Section 1596.795 of the Health and Safety Code.

11 (12) Patient smoking areas in long-term health care facilities,
12 as defined in Section 1418 of the Health and Safety Code.

13 (13) Breakrooms designated by employers for smoking, provided
14 that all of the following conditions are met:

15 (A) Air from the smoking room shall be exhausted directly to
16 the outside by an exhaust fan. Air from the smoking room shall
17 not be recirculated to other parts of the building.

18 (B) The employer shall comply with any ventilation standard
19 or other standard utilizing appropriate technology, including, but
20 not limited to, mechanical, electronic, and biotechnical systems,
21 adopted by the Occupational Safety and Health Standards Board
22 or the federal Environmental Protection Agency. If both adopt
23 inconsistent standards, the ventilation standards of the Occupational
24 Safety and Health Standards Board shall be no less stringent than
25 the standards adopted by the federal Environmental Protection
26 Agency.

27 (C) The smoking room shall be located in a nonwork area where
28 no one, as part of his or her work responsibilities, is required to
29 enter. For purposes of this subparagraph, “work responsibilities”
30 does not include any custodial or maintenance work carried out in
31 the breakroom when it is unoccupied.

32 (D) There are sufficient nonsmoking breakrooms to
33 accommodate nonsmokers.

34 (14) Employers with a total of five or fewer employees, either
35 full time or part time, may permit smoking where all of the
36 following conditions are met:

37 (A) The smoking area is not accessible to minors.

38 (B) All employees who enter the smoking area consent to permit
39 smoking. No one, as part of his or her work responsibilities, shall
40 be required to work in an area where smoking is permitted. An

1 employer who is determined by the division to have used coercion
2 to obtain consent or who has required an employee to work in the
3 smoking area shall be subject to the penalty provisions of Section
4 6427.

5 (C) Air from the smoking area shall be exhausted directly to
6 the outside by an exhaust fan. Air from the smoking area shall not
7 be recirculated to other parts of the building.

8 (D) The employer shall comply with any ventilation standard
9 or other standard utilizing appropriate technology, including, but
10 not limited to, mechanical, electronic, and biotechnical systems,
11 adopted by the Occupational Safety and Health Standards Board
12 or the federal Environmental Protection Agency. If both adopt
13 inconsistent standards, the ventilation standards of the Occupational
14 Safety and Health Standards Board shall be no less stringent than
15 the standards adopted by the federal Environmental Protection
16 Agency.

17 This paragraph shall not be construed to (i) supersede or render
18 inapplicable any condition or limitation on smoking areas made
19 applicable to specific types of business establishments by any other
20 paragraph of this subdivision or (ii) apply in lieu of any otherwise
21 applicable paragraph of this subdivision that has become
22 inoperative.

23 (e) Paragraphs (13) and (14) of subdivision (d) shall not be
24 construed to require employers to provide reasonable
25 accommodation to smokers, or to provide breakrooms for smokers
26 or nonsmokers.

27 (f) (1) Except as otherwise provided in this subdivision,
28 smoking may be permitted in gaming clubs, as defined in paragraph
29 (7) of subdivision (d), and in bars and taverns, as defined in
30 paragraph (8) of subdivision (d), until the earlier of the following:

31 (A) January 1, 1998.

32 (B) The date of adoption of a regulation (i) by the Occupational
33 Safety and Health Standards Board reducing the permissible
34 employee exposure level to environmental tobacco smoke to a
35 level that will prevent anything other than insignificantly harmful
36 effects to exposed employees or (ii) by the federal Environmental
37 Protection Agency establishing a standard for reduction of
38 permissible exposure to environmental tobacco smoke to an
39 exposure level that will prevent anything other than insignificantly
40 harmful effects to exposed persons.

1 (2) If a regulation specified in subparagraph (B) of paragraph
2 (1) is adopted on or before January 1, 1998, smoking may thereafter
3 be permitted in gaming clubs and in bars and taverns, subject to
4 full compliance with, or conformity to, the standard in the
5 regulation within two years following the date of adoption of the
6 regulation. An employer failing to achieve compliance with, or
7 conformity to, the regulation within this two-year period shall
8 prohibit smoking in the gaming club, bar, or tavern until
9 compliance or conformity is achieved. If the Occupational Safety
10 and Health Standards Board and the federal Environmental
11 Protection Agency both adopt regulations specified in subparagraph
12 (B) of paragraph (1) that are inconsistent, the regulations of the
13 Occupational Safety and Health Standards Board shall be no less
14 stringent than the regulations of the federal Environmental
15 Protection Agency.

16 (3) If a regulation specified in subparagraph (B) of paragraph
17 (1) is not adopted on or before January 1, 1998, the exemptions
18 specified in paragraphs (7) and (8) of subdivision (d) shall become
19 inoperative on and after January 1, 1998, until a regulation is
20 adopted. Upon adoption of such a regulation on or after January
21 1, 1998, smoking may thereafter be permitted in gaming clubs and
22 in bars and taverns, subject to full compliance with, or conformity
23 to, the standard in the regulation within two years following the
24 date of adoption of the regulation. An employer failing to achieve
25 compliance with, or conformity to, the regulation within this
26 two-year period shall prohibit smoking in the gaming club, bar,
27 or tavern until compliance or conformity is achieved. If the
28 Occupational Safety and Health Standards Board and the federal
29 Environmental Protection Agency both adopt regulations specified
30 in subparagraph (B) of paragraph (1) that are inconsistent, the
31 regulations of the Occupational Safety and Health Standards Board
32 shall be no less stringent than the regulations of the federal
33 Environmental Protection Agency.

34 (4) From January 1, 1997, to December 31, 1997, inclusive,
35 smoking may be permitted in gaming clubs, as defined in paragraph
36 (7) of subdivision (d), and in bars and taverns, as defined in
37 paragraph (8) of subdivision (d), subject to both of the following
38 conditions:

39 (A) If practicable, the gaming club or bar or tavern shall
40 establish a designated nonsmoking area.

1 (B) If feasible, no employee shall be required, in the
2 performance of ordinary work responsibilities, to enter any area
3 in which smoking is permitted.

4 (g) The smoking prohibition set forth in this section shall
5 constitute a uniform statewide standard for regulating the smoking
6 of tobacco products in enclosed places of employment and shall
7 supersede and render unnecessary the local enactment or
8 enforcement of local ordinances regulating the smoking of tobacco
9 products in enclosed places of employment. Insofar as the smoking
10 prohibition set forth in this section is applicable to all (100-percent)
11 places of employment within this state and, therefore, provides
12 the maximum degree of coverage, the practical effect of this section
13 is to eliminate the need of local governments to enact enclosed
14 workplace smoking restrictions within their respective jurisdictions.

15 (h) Nothing in this section shall prohibit an employer from
16 prohibiting smoking of tobacco products in an enclosed place of
17 employment for any reason.

18 (i) The enactment of local regulation of smoking of tobacco
19 products in enclosed places of employment by local governments
20 shall be suspended only for as long as, and to the extent that, the
21 (100-percent) smoking prohibition provided for in this section
22 remains in effect. In the event this section is repealed or modified
23 by subsequent legislative or judicial action so that the (100-percent)
24 smoking prohibition is no longer applicable to all enclosed places
25 of employment in California, local governments shall have the full
26 right and authority to enforce previously enacted, and to enact and
27 enforce new, restrictions on the smoking of tobacco products in
28 enclosed places of employment within their jurisdictions, including
29 a complete prohibition of smoking. Notwithstanding any other
30 provision of this section, any area not defined as a “place of
31 employment” or in which smoking is not regulated pursuant to
32 subdivision (d) or (e), shall be subject to local regulation of
33 smoking of tobacco products.

34 (j) Any violation of the prohibition set forth in subdivision (b)
35 is an infraction, punishable by a fine not to exceed one hundred
36 dollars (\$100) for a first violation, two hundred dollars (\$200) for
37 a second violation within one year, and five hundred dollars (\$500)
38 for a third and for each subsequent violation within one year. This
39 subdivision shall be enforced by local law enforcement agencies,

1 including, but not limited to, local health departments, as
2 determined by the local governing body.

3 (k) Notwithstanding Section 6309, the division shall not be
4 required to respond to any complaint regarding the smoking of
5 tobacco products in an enclosed space at a place of employment,
6 unless the employer has been found guilty pursuant to subdivision
7 (j) of a third violation of subdivision (b) within the previous year.

8 (l) If any provision of this act or the application thereof to any
9 person or circumstances is held invalid, that invalidity shall not
10 affect other provisions or applications of the act that can be given
11 effect without the invalid provision or application, and to this end
12 the provisions of this act are severable.

13 (m) For purposes of this section, "tobacco product" means a
14 product or device as defined in subdivision (c) of Section 22950.5
15 of the Business and Professions Code.

16 ~~SEC. 22.~~

17 *SEC. 23.* Section 308 of the Penal Code is amended to read:

18 308. (a) (1) Every person, firm, or corporation that knowingly
19 or under circumstances in which it has knowledge, or should
20 otherwise have grounds for knowledge, sells, gives, or in any way
21 furnishes to another person who is under ~~the age of 18 years~~ *18*
22 *years of age* any tobacco, cigarette, or cigarette papers, or blunts
23 wraps, or any other preparation of tobacco, or any other instrument
24 or paraphernalia that is designed for the smoking or ingestion of
25 tobacco, tobacco products, or any controlled substance, is subject
26 to either a criminal action for a misdemeanor or to a civil action
27 brought by a city attorney, a county counsel, or a district attorney,
28 punishable by a fine of two hundred dollars (\$200) for the first
29 offense, five hundred dollars (\$500) for the second offense, and
30 one thousand dollars (\$1,000) for the third offense.

31 Notwithstanding Section 1464 or any other law, 25 percent of
32 each civil and criminal penalty collected pursuant to this
33 subdivision shall be paid to the office of the city attorney, county
34 counsel, or district attorney, whoever is responsible for bringing
35 the successful action, and 25 percent of each civil and criminal
36 penalty collected pursuant to this subdivision shall be paid to the
37 city or county for the administration and cost of the community
38 service work component provided in subdivision (b).

39 Proof that a defendant, or his or her employee or agent,
40 demanded, was shown, and reasonably relied upon evidence of

1 majority shall be defense to any action brought pursuant to this
2 subdivision. Evidence of majority of a person is a facsimile of or
3 a reasonable likeness of a document issued by a federal, state,
4 county, or municipal government, or subdivision or agency thereof,
5 including, but not limited to, a motor vehicle operator's license, a
6 registration certificate issued under the federal Selective Service
7 Act, or an identification card issued to a member of the Armed
8 Forces.

9 For purposes of this section, the person liable for selling or
10 furnishing tobacco products to minors by a tobacco vending
11 machine shall be the person authorizing the installation or
12 placement of the tobacco vending machine upon premises he or
13 she manages or otherwise controls and under circumstances in
14 which he or she has knowledge, or should otherwise have grounds
15 for knowledge, that the tobacco vending machine will be utilized
16 by minors.

17 (2) For purposes of this section, "blunt wraps" means cigar
18 papers or cigar wrappers of all types that are designed for smoking
19 or ingestion of tobacco products and contain less than 50 percent
20 tobacco.

21 (b) Every person ~~under the age of 18 years~~ *18 years of age* who
22 purchases, receives, or possesses any tobacco, cigarette, or cigarette
23 papers, or any other preparation of tobacco, or any other instrument
24 or paraphernalia that is designed for the smoking of tobacco,
25 tobacco products, or any controlled substance shall, upon
26 conviction, be punished by a fine of seventy-five dollars (\$75) or
27 30 hours of community service work.

28 (c) Every person, firm, or corporation that sells, or deals in
29 tobacco or any preparation thereof, shall post conspicuously and
30 keep so posted in his, her, or their place of business at each point
31 of purchase the notice required pursuant to subdivision (b) of
32 Section 22952 of the Business and Professions Code, and any
33 person failing to do so shall, upon conviction, be punished by a
34 fine of fifty dollars (\$50) for the first offense, one hundred dollars
35 (\$100) for the second offense, two hundred fifty dollars (\$250) for
36 the third offense, and five hundred dollars (\$500) for the fourth
37 offense and each subsequent violation of this provision, or by
38 imprisonment in a county jail not exceeding 30 days.

39 (d) For purposes of determining the liability of persons, firms,
40 or corporations controlling franchises or business operations in

1 multiple locations for the second and subsequent violations of this
2 section, each individual franchise or business location shall be
3 deemed a separate entity.

4 (e) Notwithstanding subdivision (b), any person under 18 years
5 of age who purchases, receives, or possesses any tobacco, cigarette,
6 or cigarette papers, or any other preparation of tobacco, any other
7 instrument or paraphernalia that is designed for the smoking of
8 tobacco, or tobacco products is immune from prosecution for that
9 purchase, receipt, or possession while participating in either of the
10 following:

11 (1) An enforcement activity that complies with the guidelines
12 adopted pursuant to subdivisions (c) and (d) of Section 22952 of
13 the Business and Professions Code.

14 (2) An activity conducted by the State Department of Public
15 Health, a local health department, or a law enforcement agency
16 for the purpose of determining or evaluating youth tobacco
17 purchase rates.

18 (f) It is the Legislature's intent to regulate the subject matter of
19 this section. As a result, a city, county, or city and county shall not
20 adopt any ordinance or regulation inconsistent with this section.

21 (g) For purposes of this section, "tobacco product" means a
22 product or device as defined in subdivision (c) of Section 22950.5
23 of the Business and Professions Code.

24 ~~SEC. 23.~~

25 *SEC. 24.* Section 561 of the Public Utilities Code is amended
26 to read:

27 561. (a) Every railroad corporation, passenger stage
28 corporation, passenger air carrier, and street railroad corporation
29 providing departures originating in this state shall prohibit the
30 smoking of a tobacco product in the passenger seating area of
31 every passenger car, passenger stage, aircraft, or other vehicle.

32 (b) Every such corporation and carrier shall display in the
33 passenger seating area of every passenger car, passenger stage,
34 aircraft, or other vehicle, notices sufficient in number, posted in
35 such locations as to be readily seen by boarding passengers,
36 advising passengers of the no smoking requirements pursuant to
37 subdivision (a). Words on such notices which state "No Smoking"
38 or an equivalent phrase shall be at least three-quarters of one inch
39 high, and any other explanatory words on the notices shall be at
40 least one-quarter of ~~an~~ *one* inch high.

1 (c) No person shall smoke a tobacco product in a space known
2 by him or her to be designated for nonsmoking passengers. A
3 violation of this subdivision is not a crime.

4 (d) As used in this section, "passenger air carrier" shall have
5 the same meaning as provided in Sections 2741 and 2743.

6 (e) For purposes of this section, "tobacco product" means a
7 product or device as defined in subdivision (c) of Section 22950.5
8 of the Business and Professions Code.

9 ~~SEC. 24.~~

10 *SEC. 25.* Section 99580 of the Public Utilities Code is amended
11 to read:

12 99580. (a) Pursuant to subdivision (e) of Section 640 of the
13 Penal Code, a public transportation agency may enact and enforce
14 an ordinance to impose and enforce an administrative penalty for
15 any of the acts described in subdivision (b). The ordinance shall
16 include the provisions of this chapter and shall not apply to minors.

17 (b) (1) Evasion of the payment of a fare of the system.

18 (2) Misuse of a transfer, pass, ticket, or token with the intent to
19 evade the payment of a fare.

20 (3) Playing sound equipment on or in a system facility or
21 vehicle.

22 (4) Smoking a tobacco product, eating, or drinking in or on a
23 system facility or vehicle in those areas where those activities are
24 prohibited by that system.

25 (5) Expectorating upon a system facility or vehicle.

26 (6) Willfully disturbing others on or in a system facility or
27 vehicle by engaging in boisterous or unruly behavior.

28 (7) Carrying an explosive or acid, flammable liquid, or toxic or
29 hazardous material in a system facility or vehicle.

30 (8) Urinating or defecating in a system facility or vehicle, except
31 in a lavatory. However, this paragraph shall not apply to a person
32 who cannot comply with this paragraph as a result of a disability,
33 age, or a medical condition.

34 (9) (A) Willfully blocking the free movement of another person
35 in a system facility or vehicle.

36 (B) This paragraph shall not be interpreted to affect any lawful
37 activities permitted or first amendment rights protected under the
38 laws of this state or applicable federal law, including, but not
39 limited to, laws related to collective bargaining, labor relations,
40 or labor disputes.

1 (10) Skateboarding, roller skating, bicycle riding, or roller
2 blading in a system facility, including a parking structure, or in a
3 system vehicle. This paragraph does not apply to an activity that
4 is necessary for utilization of a system facility by a bicyclist,
5 including, but not limited to, an activity that is necessary for
6 parking a bicycle or transporting a bicycle aboard a system vehicle,
7 if that activity is conducted with the permission of the agency of
8 the system in a manner that does not interfere with the safety of
9 the bicyclist or other patrons of the system facility.

10 (11) (A) Unauthorized use of a discount ticket or failure to
11 present, upon request from a system representative, acceptable
12 proof of eligibility to use a discount ticket, in accordance with
13 Section 99155, and posted system identification policies when
14 entering or exiting a system station or vehicle. Acceptable proof
15 of eligibility must be clearly defined in the posting.

16 (B) In the event that an eligible discount ticket user is not in
17 possession of acceptable proof at the time of request, an issued
18 notice of fare evasion or passenger conduct violation shall be held
19 for a period of 72 hours to allow the user to produce acceptable
20 proof. If the proof is provided, that notice shall be voided. If the
21 proof is not produced within that time period, that notice shall be
22 processed.

23 (12) Sale or peddling of any goods, merchandise, property, or
24 services of any kind whatsoever on the facilities, vehicles, or
25 property of the public transportation system without the express
26 written consent of the public transportation system or its duly
27 authorized representatives.

28 (c) (1) The public transportation agency may contract with a
29 private vendor or governmental agency for the processing of notices
30 of fare evasion or passenger conduct violation, and notices of
31 delinquent fare evasion or passenger conduct violation pursuant
32 to Section 99581.

33 (2) For the purpose of this chapter, “processing agency” means
34 either of the following:

35 (A) The agency issuing the notice of fare evasion or passenger
36 conduct violation and the notice of delinquent fare evasion or
37 passenger conduct violation.

38 (B) The party responsible for processing the notice of fare
39 evasion or passenger conduct violation and the notice of delinquent
40 violation, if a contract is entered into pursuant to paragraph (1).

1 (3) For the purpose of this chapter, “fare evasion or passenger
2 conduct violation penalty” includes, but is not limited to, a late
3 payment penalty, administrative fee, fine, assessment, and costs
4 of collection as provided for in the ordinance.

5 (4) For the purpose of this chapter, “public transportation
6 agency” shall mean a public agency that provides public
7 transportation as defined in paragraph (1) of subdivision (f) of
8 Section 1 of Article XIX A of the California Constitution.

9 (5) All fare evasion and passenger conduct violation penalties
10 collected pursuant to this chapter shall be deposited in the general
11 fund of the county in which the citation is administered.

12 (d) (1) If a fare evasion or passenger conduct violation is
13 observed by a person authorized to enforce the ordinance, a notice
14 of fare evasion or passenger conduct violation shall be issued. The
15 notice shall set forth the violation, including reference to the
16 ordinance setting forth the administrative penalty, the date of the
17 violation, the approximate time, and the location where the
18 violation occurred. The notice shall include a printed statement
19 indicating the date payment is required to be made, and the
20 procedure for contesting the notice. The notice shall be served by
21 personal service upon the violator. The notice, or copy of the
22 notice, shall be considered a record kept in the ordinary course of
23 business of the issuing agency and the processing agency, and
24 shall be prima facie evidence of the facts contained in the notice
25 establishing a rebuttable presumption affecting the burden of
26 producing evidence.

27 (2) When a notice of fare evasion or passenger conduct violation
28 has been served, the person issuing the notice shall file the notice
29 with the processing agency.

30 (3) If, after a notice of fare evasion or passenger conduct
31 violation is issued pursuant to this section, the issuing officer
32 determines that there is incorrect data on the notice, including, but
33 not limited to, the date or time, the issuing officer may indicate in
34 writing on a form attached to the original notice the necessary
35 correction to allow for the timely entry of the corrected notice on
36 the processing agency’s data system. A copy of the correction shall
37 be mailed to the address provided by the person cited at the time
38 the original notice of fare evasion or passenger conduct violation
39 was served.

1 (4) If a person contests a notice of fare evasion or passenger
2 conduct violation, the issuing agency shall proceed in accordance
3 with Section 99581.

4 (e) In setting the amounts of administrative penalties for the
5 violations listed in subdivision (b), the public transportation agency
6 shall not establish penalty amounts that exceed the maximum fine
7 amount set forth in Section 640 of the Penal Code.

8 (f) A person who receives a notice of fare evasion or passenger
9 conduct violation pursuant to this section shall not be subject to
10 citation for a violation of Section 640 of the Penal Code.

11 (g) If an entity enacts an ordinance pursuant to this section it
12 shall, both two years and five years after enactment of the
13 ordinance, report all of the following information to the Senate
14 Committee on Transportation and Housing and the Assembly
15 Committee on Transportation:

16 (1) A description of the ordinance, including the circumstances
17 under which an alleged violator is afforded the opportunity to
18 complete the administrative process.

19 (2) The amount of the administrative penalties.

20 (3) The number and types of citations administered pursuant to
21 the ordinance.

22 (4) To the extent available, a comparison of the number and
23 types of citations administered pursuant to the ordinance with the
24 number and types of citations issued for similar offenses and
25 administered through the courts both in the two years prior to the
26 ordinance and, if any, since enactment of the ordinance.

27 (5) A discussion of the effect of the ordinance on passenger
28 behavior.

29 (6) A discussion of the effect of the ordinance on revenues to
30 the entity described in subdivision (a) and, in consultation with
31 the superior courts, the cost savings to the county courts. The
32 superior courts are encouraged to collaborate on and provide data
33 for this report.

34 (h) For purposes of this section, "tobacco product" means a
35 product or device as defined in subdivision (c) of Section 22950.5
36 of the Business and Professions Code.

37 ~~SEC. 25.~~

38 *SEC. 26.* Section 12523 of the Vehicle Code is amended to
39 read:

1 12523. (a) No person shall operate a youth bus without having
2 in possession a valid driver's license of the appropriate class,
3 endorsed for passenger transportation and a certificate issued by
4 the department to permit the operation of a youth bus.

5 (b) Applicants for a certificate to drive a youth bus shall present
6 evidence that they have successfully completed a driver training
7 course administered by or at the direction of their employer
8 consisting of a minimum of 10 hours of classroom instruction
9 covering applicable laws and regulations and defensive driving
10 practices and a minimum of 10 hours of behind-the-wheel training
11 in a vehicle to be used as a youth bus. Applicants seeking to renew
12 a certificate to drive a youth bus shall present evidence that they
13 have received two hours of refresher training during each 12
14 months of driver certificate validity.

15 (c) The driver certificate shall be issued only to applicants
16 qualified by examinations prescribed by the Department of Motor
17 Vehicles and the Department of the California Highway Patrol,
18 and upon payment of a fee of twenty-five dollars (\$25) for an
19 original certificate and twelve dollars (\$12) for the renewal of that
20 certificate to the Department of the California Highway Patrol.
21 The examinations shall be conducted by the Department of the
22 California Highway Patrol. The Department of Motor Vehicles
23 may deny, suspend, or revoke a certificate valid for driving a youth
24 bus for the causes specified in this code or in regulations adopted
25 pursuant to this code.

26 (d) An operator of a youth bus shall, at all times when operating
27 a youth bus, do all of the following:

28 (1) Use seat belts.

29 (2) Refrain from smoking tobacco products.

30 (3) Report any accidents reportable under Section 16000 to the
31 Department of the California Highway Patrol.

32 (e) A person holding a valid certificate to permit the operation
33 of a youth bus, issued prior to January 1, 1991, shall not be required
34 to reapply for a certificate to satisfy any additional requirements
35 imposed by the act adding this subdivision until the certificate he
36 or she holds expires or is canceled or revoked.

37 (f) For purposes of this section, "tobacco product" means a
38 product or device as defined in subdivision (c) of Section 22950.5
39 of the Business and Professions Code.

1 *SEC. 27. This act does not affect any laws or regulations*
2 *regarding medical cannabis.*

3 ~~SEC. 26.~~

4 *SEC. 28.* No reimbursement is required by this act pursuant to
5 Section 6 of Article XIII B of the California Constitution because
6 the only costs that may be incurred by a local agency or school
7 district will be incurred because this act creates a new crime or
8 infraction, eliminates a crime or infraction, or changes the penalty
9 for a crime or infraction, within the meaning of Section 17556 of
10 the Government Code, or changes the definition of a crime within
11 the meaning of Section 6 of Article XIII B of the California
12 Constitution.

O

Introduced by Senator Hernandez
(Principal coauthor: Assembly Member Wood)
(Coauthor: Senator Leno)

January 29, 2015

An act to amend Sections 17537.3, 22951, 22952, 22956, 22958, and 22963 of, and to add Section 22964 to, the Business and Professions Code, and to amend Section 308 of the Penal Code, relating to tobacco.

LEGISLATIVE COUNSEL'S DIGEST

SB 151, as introduced, Hernandez. Tobacco products: minimum legal age.

Existing law, the Stop Tobacco Access to Kids Enforcement (STAKE) Act, establishes various requirements for distributors and retailers relating to tobacco sales to minors. Existing law prohibits the furnishing of tobacco products to, and the purchase of tobacco products by, a person under 18 years of age. Under existing law, a person is prohibited from making various promotional or advertising offers of smokeless tobacco products without taking actions to ensure that the product is not available to persons under 18 years of age. Existing law also requires the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 18 years of age.

This bill would extend the applicability of those provisions to persons under 21 years of age. The bill would authorize the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 21 years of age.

The bill would also provide that the STAKE Act does not invalidate existing local government ordinances or prohibit the adoption of local

government ordinances requiring a more restrictive legal age to purchase or possess tobacco products.

By expanding the scope of existing crimes, the bill would impose a state-mandated local program.

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.

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

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

1 SECTION 1. Section 17537.3 of the Business and Professions
2 Code is amended to read:

3 17537.3. The following acts are prohibited:

4 (a) For any person to offer as part of an advertising plan or
5 program, promotional offers of smokeless tobacco products which
6 require proof of purchase of a smokeless tobacco product unless
7 it carries a designation that the offer is not available to ~~minors~~
8 *persons under 21 years of age*. Each promotional offer shall include
9 in any mail-in coupon a statement requesting purchasers to verify
10 that the purchaser is ~~18~~ 21 years of age or older.

11 (b) For any person to honor mail-in and telephone requests for
12 promotional offers of smokeless tobacco products unless
13 appropriate efforts are made to ascertain that a purchaser is over
14 ~~18~~ 21 years of age. For purposes of this subdivision, appropriate
15 efforts to ascertain the age of a purchaser includes, but is not
16 limited to, requests for a purchaser's birth date.

17 (c) For any person by any means, as part of an advertising plan
18 or program, to distribute free samples of smokeless tobacco
19 products within a two block radius of any premises or facilities
20 whose primary purpose is directed toward persons under the age
21 of ~~18~~ 21 years including, but not limited to, schools, clubhouses,
22 and youth centers, when those premises are being used for their
23 primary purposes.

24 (d) For any person to distribute, as part of any advertising plan
25 or program, unsolicited samples of smokeless tobacco products
26 through a mail campaign.

1 SEC. 2. Section 22951 of the Business and Professions Code
2 is amended to read:

3 22951. The Legislature finds and declares that reducing and
4 eventually eliminating the illegal purchase and consumption of
5 tobacco products by ~~minors~~ *any person under 21 years of age* is
6 critical to ensuring the long-term health of our state's citizens.
7 Accordingly, California must fully comply with federal regulations,
8 particularly the "Synar Amendment," that restrict tobacco sales to
9 minors and require states to vigorously enforce their laws
10 prohibiting the sale and distribution of tobacco products to persons
11 under 18 years of age. Full compliance and vigorous enforcement
12 of the "Synar Amendment" requires the collaboration of multiple
13 state and local agencies that license, inspect, or otherwise conduct
14 business with retailers, distributors, or wholesalers that sell tobacco.

15 SEC. 3. Section 22952 of the Business and Professions Code
16 is amended to read:

17 22952. ~~On or before July 1, 1995, the~~ *The* State Department
18 of Public Health shall do all of the following:

19 (a) Establish and develop a program to reduce the availability
20 of tobacco products to persons under ~~18~~ *21* years of age through
21 the enforcement activities authorized by this division.

22 (b) Establish requirements that retailers of tobacco products
23 post conspicuously, at each point of purchase, a notice stating that
24 selling tobacco products to anyone under ~~18~~ *21* years of age is
25 illegal and subject to penalties. The notice shall also state that the
26 law requires that all persons selling tobacco products check the
27 identification of a purchaser of tobacco products who reasonably
28 appears to be under ~~18~~ *21* years of age. The warning signs shall
29 include a toll-free telephone number to the department for persons
30 to report unlawful sales of tobacco products to ~~minors~~ *any person*
31 *under 21 years of age.*

32 (c) Provide that primary responsibility for enforcement of this
33 division shall be with the department. In carrying out its
34 enforcement responsibilities, the department shall conduct random,
35 onsite sting inspections at retail sites and shall enlist the assistance
36 of persons that are ~~15 and 16~~ *under 21* years of age in conducting
37 these enforcement activities. The department may conduct onsite
38 sting inspections in response to public complaints or at retail sites
39 where violations have previously occurred, and investigate illegal
40 sales of tobacco products to ~~minors~~ *any person under 21 years of*

1 *age* by telephone, mail, or the Internet. Participation in these
2 enforcement activities by a person under ~~18~~ 21 years of age does
3 not constitute a violation of subdivision (b) of Section 308 of the
4 Penal Code for the person under ~~18~~ 21 years of age, and the person
5 under ~~18~~ 21 years of age is immune from prosecution thereunder,
6 or under any other provision of law prohibiting the purchase of
7 these products by a person under ~~18~~ 21 years of age.

8 (d) In accordance with Chapter 3.5 (commencing with Section
9 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
10 the department shall adopt and publish guidelines for the use of
11 persons under ~~18~~ 21 years of age in inspections conducted pursuant
12 to subdivision (c) that shall include, but not be limited to, all of
13 the following:

14 (1) An enforcing agency may use persons under ~~18~~ years of age
15 ~~who are 15 or 16~~ 21 years of age in random inspections to
16 determine if sales of cigarettes or other tobacco products are being
17 made to persons under ~~18~~ 21 years of age.

18 (2) A photograph or video recording of the person under ~~18~~ 21
19 years of age shall be taken prior to each inspection or shift of
20 inspections and retained by the enforcing agency for purposes of
21 verifying appearances.

22 (3) An enforcing agency may use video recording equipment
23 when conducting the inspections to record and document illegal
24 sales or attempted sales.

25 (4) The person under ~~18~~ 21 years of age, if questioned about
26 his or her age, need not state his or her actual age but shall present
27 a true and correct identification if verbally asked to present it. Any
28 failure on the part of the person under ~~18~~ 21 years of age to provide
29 true and correct identification, if verbally asked for it, shall be a
30 defense to an action pursuant to this section.

31 (5) The person under ~~18~~ 21 years of age shall be under the
32 supervision of a regularly employed peace officer during the
33 inspection.

34 (6) All persons under ~~18~~ 21 years of age used in this manner by
35 an enforcing agency shall display the appearance of a person under
36 ~~18~~ 21 years of age. It shall be a defense to an action under this
37 division that the person's appearance was not that which could be
38 generally expected of a person under ~~18~~ 21 years of age, under the
39 actual circumstances presented to the seller of the cigarettes or
40 other tobacco products at the time of the alleged offense.

1 (7) Following the completion of the sale, the peace officer
2 accompanying the person under ~~18~~ 21 years of age shall reenter
3 the retail establishment and shall inform the seller of the random
4 inspection. Following an attempted sale, the enforcing agency shall
5 notify the retail establishment of the inspection.

6 (8) Failure to comply with the procedures set forth in this
7 subdivision shall be a defense to an action brought pursuant to this
8 section.

9 (e) Be responsible for ensuring and reporting the state's
10 compliance with Section 1926 of Title XIX of the federal Public
11 Health Service Act (42 U.S.C. Sec. 300x-26) and any implementing
12 regulations adopted in relation thereto by the United States
13 Department of Health and Human Services. A copy of this report
14 shall be made available to the Governor and the Legislature.

15 (f) Provide that any civil penalties imposed pursuant to Section
16 22958 shall be enforced against the owner or owners of the retail
17 business and not the employees of the business.

18 SEC. 4. Section 22956 of the Business and Professions Code
19 is amended to read:

20 22956. All persons engaging in the retail sale of tobacco
21 products shall check the identification of tobacco purchasers, to
22 establish the age of the purchaser, if the purchaser reasonably
23 appears to be under ~~18~~ 21 years of age.

24 SEC. 5. Section 22958 of the Business and Professions Code
25 is amended to read:

26 22958. (a) An enforcing agency may assess civil penalties
27 against any person, firm, or corporation that sells, gives, or in any
28 way furnishes to another person who is under the age of ~~18~~ 21
29 years, any tobacco, cigarette, cigarette papers, any other instrument
30 or paraphernalia that is designed for the smoking or ingestion of
31 tobacco, products prepared from tobacco, or any controlled
32 substance, according to the following schedule: (1) a civil penalty
33 of from four hundred dollars (\$400) to six hundred dollars (\$600)
34 for the first violation, (2) a civil penalty of from nine hundred
35 dollars (\$900) to one thousand dollars (\$1,000) for the second
36 violation within a five-year period, (3) a civil penalty of from one
37 thousand two hundred dollars (\$1,200) to one thousand eight
38 hundred dollars (\$1,800) for a third violation within a five-year
39 period, (4) a civil penalty of from three thousand dollars (\$3,000)
40 to four thousand dollars (\$4,000) for a fourth violation within a

1 five-year period, or (5) a civil penalty of from five thousand dollars
2 (\$5,000) to six thousand dollars (\$6,000) for a fifth violation within
3 a five-year period.

4 (b) (1) In addition to the civil penalties described in subdivision
5 (a), upon the assessment of a civil penalty for the third, fourth, or
6 fifth violation, the department, within 60 days of the date of service
7 of the final administrative adjudication on the parties or payment
8 of the civil penalty for an uncontested violation, shall notify the
9 State Board of Equalization of the violation. The State Board of
10 Equalization shall then assess a civil penalty of two hundred fifty
11 dollars (\$250) and suspend or revoke a license issued pursuant to
12 Chapter 2 (commencing with Section 22972) of Division 8.6 in
13 accordance with the following schedule:

14 (A) A 45-day suspension of the license for a third violation at
15 the same location within a five-year period.

16 (B) A 90-day suspension of the license for a fourth violation at
17 the same location within a five-year period.

18 (C) Revocation of the license for a fifth violation at the same
19 location within a five-year period.

20 (2) The provisions of Chapter 4 (commencing with Section
21 55121) of Part 30 of Division 2 of the Revenue and Taxation Code
22 apply with respect to the collection of the penalty imposed by the
23 State Board of Equalization pursuant to paragraph (1).

24 (c) (1) For each suspension or revocation pursuant to
25 subdivision (b), the civil penalty of two hundred fifty dollars (\$250)
26 assessed pursuant to that subdivision, notwithstanding Section
27 22953, shall be deposited into the Cigarette and Tobacco Products
28 Compliance Fund established pursuant to Section 22990. Moneys
29 from that civil penalty deposited into this fund shall be made
30 available to the State Board of Equalization, upon appropriation
31 by the Legislature, for the purposes of meeting its duties under
32 subdivision (b).

33 (2) The department shall, upon request, provide to the State
34 Board of Equalization information concerning any person, firm,
35 or corporation that has been assessed a civil penalty for violation
36 of the STAKE Act pursuant to this section when the department
37 has notified the State Board of Equalization of the violation.

38 (d) The enforcing agency shall assess penalties pursuant to the
39 schedule set forth in subdivision (a) against a person, firm, or
40 corporation that sells, offers for sale, or distributes tobacco products

1 from a cigarette or tobacco products vending machine, or a person,
2 firm, or corporation that leases, furnishes, or services these
3 machines in violation of Section 22960.

4 (e) An enforcing agency may assess civil penalties against a
5 person, firm, or corporation that sells or deals in tobacco or any
6 preparation thereof, and fails to post conspicuously and keep posted
7 in the place of business at each point of purchase the notice
8 required pursuant to subdivision (b) of Section 22952. The civil
9 penalty shall be in the amount of two hundred dollars (\$200) for
10 the first offense and five hundred dollars (\$500) for each additional
11 violation.

12 (f) An enforcing agency shall assess penalties in accordance
13 with the schedule set forth in subdivision (a) against a person, firm,
14 or corporation that advertises or causes to be advertised a tobacco
15 product on an outdoor billboard in violation of Section 22961.

16 (g) If a civil penalty has been assessed pursuant to this section
17 against a person, firm, or corporation for a single, specific violation
18 of this division, the person, firm, or corporation shall not be
19 prosecuted under Section 308 of the Penal Code for a violation
20 based on the same facts or specific incident for which the civil
21 penalty was assessed. If a person, firm, or corporation has been
22 prosecuted for a single, specific violation of Section 308 of the
23 Penal Code, the person, firm, or corporation shall not be assessed
24 a civil penalty under this section based on the same facts or specific
25 incident upon which the prosecution under Section 308 of the Penal
26 Code was based.

27 (h) (1) In the case of a corporation or business with more than
28 one retail location, to determine the number of accumulated
29 violations for purposes of the penalty schedule set forth in
30 subdivision (a), violations of this division by one retail location
31 shall not be accumulated against other retail locations of that same
32 corporation or business.

33 (2) In the case of a retail location that operates pursuant to a
34 franchise as defined in Section 20001, violations of this division
35 accumulated and assessed against a prior owner of a single
36 franchise location shall not be accumulated against a new owner
37 of the same single franchise location for purposes of the penalty
38 schedule set forth in subdivision (a).

39 (i) Proceedings under this section shall be conducted pursuant
40 to Section 131071 of the Health and Safety Code, except in cases

1 where a civil penalty is assessed by an enforcing agency other than
2 the department, in which case proceedings shall be conducted
3 pursuant to the procedures of that agency that are consistent with
4 Section 131071 of the Health and Safety Code.

5 SEC. 6. Section 22963 of the Business and Professions Code
6 is amended to read:

7 22963. (a) The sale, distribution, or nonsale distribution of
8 tobacco products directly or indirectly to any person under the age
9 of ~~18~~ 21 years through the United States Postal Service or through
10 any other public or private postal or package delivery service at
11 locations, including, but not limited to, public mailboxes and
12 mailbox stores, is prohibited.

13 (b) Any person selling or distributing, or engaging in the nonsale
14 distribution of, tobacco products directly to a consumer in the state
15 through the United States Postal Service or by any other public or
16 private postal or package delivery service, including orders placed
17 by mail, telephone, facsimile transmission, or the Internet, shall
18 comply with the following provisions:

19 (1) (A) Before enrolling a person as a customer, or distributing
20 or selling, or engaging in the nonsale distribution of, the tobacco
21 product through any of these means, the distributor or seller shall
22 verify that the purchaser or recipient of the product is ~~18~~ 21 years
23 of age or older. The distributor or seller shall attempt to match the
24 name, address, and date of birth provided by the customer to
25 information contained in records in a database of individuals whose
26 age has been verified to be ~~18~~ 21 years or older by reference to an
27 appropriate database of government records kept by the distributor,
28 a direct marketing firm, or any other entity. In the case of a sale,
29 the distributor or seller shall also verify that the billing address on
30 the check or credit card offered for payment by the purchaser
31 matches the address listed in the database.

32 (B) If the seller, distributor, or nonsale distributor, is unable to
33 verify that the purchaser or recipient is ~~18~~ 21 years of age or older
34 pursuant to subparagraph (A), he or she shall require the customer
35 or recipient to submit an age-verification kit consisting of an
36 attestation signed by the customer or recipient that he or she is ~~18~~
37 21 years of age or older and a copy of a valid form of government
38 identification. For the purposes of this section, a valid form of
39 government identification includes a driver's license, state
40 identification card, passport, an official naturalization or

1 immigration document, such as an alien registration receipt card
2 (commonly known as a “green card”) or an immigrant visa, or
3 military identification. In the case of a sale, the distributor or seller
4 shall also verify that the billing address on the check or credit card
5 provided by the consumer matches the address listed in the form
6 of government identification.

7 (2) In the case of a sale, the distributor or seller shall impose a
8 two-carton minimum on each order of cigarettes, and shall require
9 payment for the purchase of any tobacco product to be made by
10 personal check of the purchaser or the purchaser’s credit card. No
11 money order or cash payment shall be received or permitted. The
12 distributor or seller shall submit to each credit card acquiring
13 company with which it has credit card sales identification
14 information in an appropriate form and format so that the words
15 “tobacco product” may be printed in the purchaser’s credit card
16 statement when a purchase of a tobacco product is made by credit
17 card payment.

18 (3) In the case of a sale, the distributor or seller shall make a
19 telephone call after 5 p.m. to the purchaser confirming the order
20 prior to shipping the tobacco products. The telephone call may be
21 a person-to-person call or a recorded message. The distributor or
22 seller is not required to speak directly with a person and may leave
23 a message on an answering machine or by voice mail.

24 (4) The nonsale distributor shall deliver the tobacco product to
25 the recipient’s verified mailing address, or in the case of a sale,
26 the seller or distributor shall deliver the tobacco product to the
27 purchaser’s verified billing address on the check or credit card
28 used for payment. No delivery described under this section shall
29 be permitted to any post office box.

30 (c) Notwithstanding subdivisions (a) and (b), if a seller,
31 distributor, or nonsale distributor, complies with all of the
32 requirements of this section and a ~~minor~~ *person under 21 years of*
33 *age* obtains a tobacco product by any of the means described in
34 subdivision (b), the seller, distributor, or nonsale distributor is not
35 in violation of this section.

36 (d) For the purposes of the enforcement of this section pursuant
37 to Section 22958, the acts of the United States Postal Service or
38 other common carrier when engaged in the business of transporting
39 and delivering packages for others, and the acts of a person,
40 whether compensated or not, who transports or delivers a package

1 for another person without any reason to know of the package's
2 contents, are not unlawful and are not subject to civil penalties.

3 (e) (1) (A) For the purposes of this section, a "distributor" is
4 any person or entity, within or outside the state, who agrees to
5 distribute tobacco products to a customer or recipient within the
6 state. The United States Postal Service or any other public or
7 private postal or package delivery service are not distributors within
8 the meaning of this section.

9 (B) A "nonsale distributor" is any person inside or outside of
10 this state who, directly or indirectly, knowingly provides tobacco
11 products to any person in this state as part of a nonsale transaction.
12 "Nonsale distributor" includes the person or entity who provides
13 the tobacco product for delivery and the person or entity who
14 delivers the product to the recipient as part of a nonsale transaction.

15 (C) "Nonsale distribution" means to give smokeless tobacco or
16 cigarettes to the general public at no cost, or at nominal cost, or
17 to give coupons, coupon offers, gift certificates, gift cards, or other
18 similar offers, or rebate offers for smokeless tobacco or cigarettes
19 to the general public at no cost or at nominal cost. Distribution of
20 tobacco products, coupons, coupon offers, gift certificates, gift
21 cards, or other similar offers, or rebate offers in connection with
22 the sale of another item, including tobacco products, cigarette
23 lighters, magazines, or newspapers shall not constitute nonsale
24 distribution.

25 (2) For the purpose of this section, a "seller" is any person or
26 entity, within or outside the state, who agrees to sell tobacco
27 products to a customer within the state. The United States Postal
28 Service or any other public or private postal or package delivery
29 service are not sellers within the meaning of this section.

30 (3) For the purpose of this section, a "carton" is a package or
31 container that contains 200 cigarettes.

32 (f) A district attorney, city attorney, or the Attorney General
33 may assess civil penalties against any person, firm, corporation,
34 or other entity that violates this section, according to the following
35 schedule:

36 (1) A civil penalty of not less than one thousand dollars (\$1,000)
37 and not more than two thousand dollars (\$2,000) for the first
38 violation.

1 (2) A civil penalty of not less than two thousand five hundred
2 dollars (\$2,500) and not more than three thousand five hundred
3 dollars (\$3,500) for the second violation.

4 (3) A civil penalty of not less than four thousand dollars (\$4,000)
5 and not more than five thousand dollars (\$5,000) for the third
6 violation within a five-year period.

7 (4) A civil penalty of not less than five thousand five hundred
8 dollars (\$5,500) and not more than six thousand five hundred
9 dollars (\$6,500) for the fourth violation within a five-year period.

10 (5) A civil penalty of ten thousand dollars (\$10,000) for a fifth
11 or subsequent violation within a five-year period.

12 SEC. 7. Section 22964 is added to the Business and Professions
13 Code, to read:

14 22964. This division sets forth minimum state restrictions with
15 respect to the legal age to purchase or possess tobacco products
16 and does not preempt or otherwise prohibit the adoption of a local
17 standard that imposes a more restrictive legal age to purchase or
18 possess tobacco products. A local standard that imposes a more
19 restrictive legal age to purchase or possess tobacco products shall
20 control in the event of any inconsistency between this division and
21 a local standard.

22 SEC. 8. Section 308 of the Penal Code is amended to read:

23 308. (a) (1) Every person, firm, or corporation that knowingly
24 or under circumstances in which it has knowledge, or should
25 otherwise have grounds for knowledge, sells, gives, or in any way
26 furnishes to another person who is under the age of ~~18~~ 21 years
27 any tobacco, cigarette, or cigarette papers, or blunts wraps, or any
28 other preparation of tobacco, or any other instrument or
29 paraphernalia that is designed for the smoking or ingestion of
30 tobacco, products prepared from tobacco, or any controlled
31 substance, is subject to either a criminal action for a misdemeanor
32 or to a civil action brought by a city attorney, a county counsel, or
33 a district attorney, punishable by a fine of two hundred dollars
34 (\$200) for the first offense, five hundred dollars (\$500) for the
35 second offense, and one thousand dollars (\$1,000) for the third
36 offense.

37 Notwithstanding Section 1464 or any other law, 25 percent of
38 each civil and criminal penalty collected pursuant to this
39 subdivision shall be paid to the office of the city attorney, county
40 counsel, or district attorney, whoever is responsible for bringing

1 the successful action, and 25 percent of each civil and criminal
2 penalty collected pursuant to this subdivision shall be paid to the
3 city or county for the administration and cost of the community
4 service work component provided in subdivision (b).

5 Proof that a defendant, or his or her employee or agent,
6 demanded, was shown, and reasonably relied upon evidence of
7 majority shall be defense to any action brought pursuant to this
8 subdivision. Evidence of majority of a person is a facsimile of or
9 a reasonable likeness of a document issued by a federal, state,
10 county, or municipal government, or subdivision or agency thereof,
11 including, but not limited to, a motor vehicle operator's license, a
12 registration certificate issued under the federal Selective Service
13 Act, or an identification card issued to a member of the Armed
14 Forces.

15 For purposes of this section, the person liable for selling or
16 furnishing tobacco products to ~~minors~~ *persons under 21 years of*
17 *age* by a tobacco vending machine shall be the person authorizing
18 the installation or placement of the tobacco vending machine upon
19 premises he or she manages or otherwise controls and under
20 circumstances in which he or she has knowledge, or should
21 otherwise have grounds for knowledge, that the tobacco vending
22 machine will be utilized by ~~minors~~ *persons under 21 years of age*.

23 (2) For purposes of this section, "blunt wraps" means cigar
24 papers or cigar wrappers of all types that are designed for smoking
25 or ingestion of tobacco products and contain less than 50 percent
26 tobacco.

27 (b) Every person under the age of ~~18~~ *21* years who purchases,
28 receives, or possesses any tobacco, cigarette, or cigarette papers,
29 or any other preparation of tobacco, or any other instrument or
30 paraphernalia that is designed for the smoking of tobacco, products
31 prepared from tobacco, or any controlled substance shall, upon
32 conviction, be punished by a fine of seventy-five dollars (\$75) or
33 30 hours of community service work.

34 (c) Every person, firm, or corporation that sells, or deals in
35 tobacco or any preparation thereof, shall post conspicuously and
36 keep so posted in his, her, or their place of business at each point
37 of purchase the notice required pursuant to subdivision (b) of
38 Section 22952 of the Business and Professions Code, and any
39 person failing to do so shall, upon conviction, be punished by a
40 fine of fifty dollars (\$50) for the first offense, one hundred dollars

1 (\$100) for the second offense, two hundred fifty dollars (\$250) for
2 the third offense, and five hundred dollars (\$500) for the fourth
3 offense and each subsequent violation of this provision, or by
4 imprisonment in a county jail not exceeding 30 days.

5 (d) For purposes of determining the liability of persons, firms,
6 or corporations controlling franchises or business operations in
7 multiple locations for the second and subsequent violations of this
8 section, each individual franchise or business location shall be
9 deemed a separate entity.

10 (e) Notwithstanding subdivision (b), any person under 18
11 years of age who purchases, receives, or possesses any tobacco,
12 cigarette, or cigarette papers, or any other preparation of tobacco,
13 any other instrument or paraphernalia that is designed for the
14 smoking of tobacco, or products prepared from tobacco is immune
15 from prosecution for that purchase, receipt, or possession while
16 participating in either of the following:

17 (1) An enforcement activity that complies with the guidelines
18 adopted pursuant to subdivisions (c) and (d) of Section 22952 of
19 the Business and Professions Code.

20 (2) An activity conducted by the State Department of Public
21 Health, a local health department, or a law enforcement agency
22 for the purpose of determining or evaluating youth tobacco
23 purchase rates.

24 (f) It is the Legislature's intent to regulate the subject matter of
25 this section. As a result, a city, county, or city and county shall not
26 adopt any ordinance or regulation inconsistent with this section.

27 SEC. 9. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.

O

Introduced by Senator Pan
(Principal coauthor: Assembly Member Bonta)

February 26, 2015

An act to amend Sections 30104, 30108, and 30181 of, and to add Article 2.5 (commencing with Section 30130.50) to Chapter 2 of Part 13 of Division 2 of, the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 591, as introduced, Pan. Cigarette and tobacco products taxes: California Tobacco Tax Act of 2015.

The Cigarette and Tobacco Products Tax Law, the violation of which is a crime, imposes a tax of \$0.87 per package of 20 cigarettes on every distributor of cigarettes and a tax on the wholesale cost of tobacco products distributed at a tax rate that is equivalent to the combined rate of all taxes imposed on cigarettes, and at a rate equivalent to \$0.50 per pack cigarette tax. Revenues from taxes imposed under this law are deposited in specified accounts. These taxes are inclusive of the taxes imposed under the Tobacco Tax and Health Protection Act of 1988 (Proposition 99) and the California Families and Children Act of 1998 (Proposition 10).

This bill would, on or after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of the bill, impose an additional tax on the distribution of cigarettes at the rate of \$0.10 for each cigarette distributed which would be \$2.00 per pack; would require a dealer and a wholesaler to file a return with the State Board of Equalization showing the number of cigarettes in its possession or under its control on that date, and impose a related floor stock tax;

and would require a licensed cigarette distributor to file a return with the board and pay a cigarette indicia adjustment tax at the rate equal to the difference between the existing tax rate and the tax rate imposed by this bill for cigarette tax stamps in its possession or under its control on that date. Because the bill would impose an additional tax on cigarettes under the Cigarette and Tobacco Products Tax Law, it would increase the tax upon the distribution of tobacco products under that law.

The bill would provide that the revenues collected from the additional tax be deposited in the California Tobacco Tax Act of 2015 Fund created by this bill, which would be a continuously appropriated fund, and transferred into the Tobacco Prevention and Education Account, the Tobacco Disease Related Health Care Account, and the Tobacco Law Enforcement Account to be expended for specified purposes. Because the California Tobacco Tax Act of 2015 Fund would be a continuously appropriated fund, the bill would make an appropriation.

The bill would require moneys in the California Tobacco Tax Act of 2015 Fund to be transferred from the fund to the California Children and Families First Trust Fund, which is a continuously appropriated fund, the Cigarette and Tobacco Products Surtax Fund, the Breast Cancer Fund, and the General Fund, as necessary to offset revenue decreases to those funds directly resulting from imposition of additional taxes by these provisions. Because this bill would require funds to be transferred to a continuously appropriated fund, it would make an appropriation.

Because this bill would impose new requirements under the Cigarette and Tobacco Products Tax Law, the violation of which is a crime, it would impose a state-mandated local program.

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 bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would take effect immediately as a tax levy.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:

3 (a) Tobacco use is the single most preventable cause of death
4 and disease in California, claiming the lives of more than 36,000
5 people every year. California still has approximately 3.4 million
6 adult smokers and 200,000 youth smokers.

7 (b) The inevitable health care costs of smoking come to almost
8 \$10 for every pack of cigarettes sold in California.

9 (c) Tobacco use costs Californians more than \$9.1 billion in
10 tobacco-related medical expenses every year. The cost of lost
11 productivity due to tobacco use adds an additional estimated \$8.5
12 billion to the annual economic consequences of smoking in
13 California.

14 (d) The treatment of cancer, heart disease and stroke, lung
15 disease, diabetes, and other diseases related to tobacco use
16 continues to impose a significant burden upon California's
17 overstressed health care system, including publicly funded health
18 care programs.

19 (e) In 2015-16, it is estimated that the General Fund cost of
20 publicly funded health care programs to the state will be more than
21 \$18 billion. In 2015-16, it is estimated that publicly funded health
22 care programs will provide health care coverage to more than 12
23 million Californians. At the same time, hundreds of thousands of
24 families and children go without any medical coverage due to
25 financial constraints upon the state and local government budgets
26 and recent cutbacks in publicly funded health care programs.

27 (f) A recent cost-benefit analysis concluded that if states
28 followed the United States Centers for Disease Control and
29 Prevention's Best Practices for Comprehensive Tobacco Control
30 Programs 2007 funding guidelines, up to 14 to 20 times the cost
31 of program implementation could be saved through reduced
32 medical and productivity costs as well as reduced Medicaid costs.

33 (g) The California Tobacco Tax Act of 2015 will help fund the
34 comprehensive California Tobacco Control Program designed to
35 change social norms about tobacco and discourage individuals
36 from taking up smoking and the use of other tobacco products
37 through educational programs, thereby saving the state and local
38 governments significant money now and in the future.

1 (h) Tobacco tax increases are an appropriate way to mitigate
2 the impacts of tobacco-related diseases and improve existing
3 programs providing for quality and access to health care services
4 for families and children.

5 (i) An increase in the tobacco tax will have an immediate effect
6 on smoking and is the most appropriate mechanism to fund services
7 to prevent tobacco use, help people quit smoking, and discourage
8 many people from taking up smoking.

9 (j) California taxes cigarettes at only \$0.87 per pack, and ranks
10 33rd in tobacco tax rates, reflecting one of the lowest tobacco taxes
11 in the United States. Thirty states have cigarette tax rates of \$1 per
12 pack or higher, and California is well below other west coast states
13 (Washington: \$3.025, Oregon: \$1.18, and Arizona: \$2). California
14 last raised its tobacco tax in 1998.

15 (k) The burden of smoking is not equally shared across
16 California populations and communities. Tobacco use rates are
17 much higher than the general population in African Americans,
18 white men, Korean men, enlisted military personnel, lesbian, gay,
19 bisexual, and transgender, young adult, rural, and low-income
20 populations.

21 (l) A reinvigorated tobacco control program will allow targeted
22 public health and research efforts to combat the tobacco industry's
23 predatory marketing to ethnic groups, driving down smoking rates
24 and ultimately reducing heart disease, stroke, lung disease, and
25 cancer in these California communities, which together represent
26 more than half of our state's residents.

27 SEC. 2. Section 30104 of the Revenue and Taxation Code is
28 amended to read:

29 30104. The taxes imposed by this part shall not apply to the
30 sale of cigarettes or tobacco products by a distributor to a common
31 carrier engaged in interstate or foreign passenger service or to a
32 person authorized to sell cigarettes or tobacco products on the
33 facilities of the carrier. Whenever cigarettes or tobacco products
34 are sold by distributors to common carriers engaged in interstate
35 or foreign passenger service for use or sale on facilities of the
36 carriers, or to persons authorized to sell cigarettes or tobacco
37 products on those facilities, the tax imposed by ~~Sections 30101,~~
38 ~~30123, and 30131.2~~ *under this part* shall not be levied with respect
39 to the sales of the cigarettes or tobacco products by the distributors,
40 but a tax is hereby levied upon the carriers or upon the persons

1 authorized to sell cigarettes or tobacco products on the facilities
 2 of the carriers, as the case may be, for the privilege of making sales
 3 in California at the same rate as set forth in Sections 30101, 30123,
 4 ~~and 30131.2.~~ *under this part.* Those common carriers and
 5 authorized persons shall pay the tax imposed by this section and
 6 file reports with the board, as provided in Section 30186.

7 SEC. 3. Section 30108 of the Revenue and Taxation Code is
 8 amended to read:

9 30108. (a) Every distributor engaged in business in this state
 10 and selling or accepting orders for cigarettes or tobacco products
 11 with respect to the sale of which the tax imposed by Sections
 12 ~~30101, 30123, and 30131.2~~ *under this part* is inapplicable shall,
 13 at the time of making the sale or accepting the order or, if the
 14 purchaser is not then obligated to pay the tax with respect to his
 15 or her distribution of the cigarettes or tobacco products, at the time
 16 the purchaser becomes so obligated, collect the tax from the
 17 purchaser, if the purchaser is other than a licensed distributor, and
 18 shall give to the purchaser a receipt therefor in the manner and
 19 form prescribed by the board.

20 (b) Every person engaged in business in this state and making
 21 gifts of untaxed cigarettes or tobacco products as samples with
 22 respect to which the tax imposed by Sections ~~30101, 30123, and~~
 23 ~~30131.2~~ *under this part* is inapplicable shall, at the time of making
 24 the gift or, if the donee is not then obligated to pay the tax with
 25 respect to his or her distribution of the cigarettes or tobacco
 26 products, at the time the donee becomes so obligated, collect the
 27 tax from the donee, if the donee is other than a licensed distributor,
 28 and shall give the donee a receipt therefor in the manner and form
 29 prescribed by the board. This section shall not apply to those
 30 distributions of cigarettes or tobacco products ~~which~~ *that* are
 31 exempt from tax under Section 30105.5.

32 (c) "Engaged in business in the state" means and includes any
 33 of the following:

34 (1) Maintaining, occupying, or using, permanently or
 35 temporarily, directly or indirectly, or through a subsidiary, or agent,
 36 by whatever name called, an office, place of distribution, sales or
 37 sample room or place, warehouse or storage place, or other place
 38 of business.

39 (2) Having any representative, agent, salesperson, ~~canvasser~~
 40 *canvasser*, or solicitor operating in this state under the authority

1 of the distributor or its subsidiary for the purpose of selling,
2 delivering, or the taking of orders for cigarettes or tobacco
3 products.

4 (d) The taxes required to be collected by this section constitute
5 debts owed by the distributor, or other person required to collect
6 the taxes, to the state.

7 SEC. 4. Article 2.5 (commencing with Section 30130.50) is
8 added to Chapter 2 of Part 13 of Division 2 of the Revenue and
9 Taxation Code, to read:

10

11 Article 2.5. The California Tobacco Tax Act of 2015

12

13 30130.50. For the purposes of this article:

14 (a) "Cigarette" has the same meaning as in Section 30003 as it
15 read on January 1, 2013.

16 (b) "Tobacco products" includes, but is not limited to, all forms
17 of cigars, smoking tobacco, chewing tobacco, snuff, and any other
18 articles or products made of, or containing at least 50 percent,
19 tobacco, but does not include cigarettes.

20 30130.51. In addition to any other taxes imposed upon the
21 distribution of cigarettes, there shall be imposed an additional tax
22 upon every distributor of cigarettes at the rate of one hundred mills
23 (\$0.10) for each cigarette distributed on or after the first day of
24 the first calendar quarter commencing more than 90 days after the
25 effective date of this act.

26 30130.52. (a) (1) Every dealer and wholesaler, for the
27 privilege of holding or storing cigarettes for sale, use, or
28 consumption, shall pay a floor stock tax for each cigarette in its
29 possession or under its control in this state at 12:01 a.m. on the
30 first day of the first calendar quarter commencing more than 90
31 days after the effective date of this act at the rate of one hundred
32 mills (\$0.10) for each cigarette.

33 (2) Every dealer and wholesaler shall file a return with the State
34 Board of Equalization on or before the first day of the first calendar
35 quarter commencing more than 180 days after the effective date
36 of this act on a form prescribed by the State Board of Equalization,
37 showing the number of cigarettes in its possession or under its
38 control in this state at 12:01 a.m. on the first day of the first
39 calendar quarter commencing more than 90 days after the effective

1 date of this act. The amount of tax shall be computed and shown
2 on the return.

3 (b) (1) Every licensed cigarette distributor, for the privilege of
4 distributing cigarettes and for holding or storing cigarettes for sale,
5 use, or consumption, shall pay a cigarette indicia adjustment tax
6 for each California cigarette tax stamp that is affixed to any
7 package of cigarettes and for each unaffixed California cigarette
8 tax stamp in its possession or under its control at 12:01 a.m. on
9 the first day of the first calendar quarter commencing more than
10 90 days after the effective date of this act at the following rates:

11 (A) Two dollars and fifty cents (\$2.50) for each stamp bearing
12 the designation "25."

13 (B) Two dollars (\$2) for each stamp bearing the designation
14 "20."

15 (C) One dollar (\$1) for each stamp bearing the designation "10."

16 (2) Every licensed cigarette distributor shall file a return with
17 the board on or before the first day of the first calendar quarter
18 commencing 180 days after the effective date of this act on a form
19 prescribed by the board, showing the number of stamps described
20 in subparagraphs (A), (B), and (C) of paragraph (1). The amount
21 of tax shall be computed and shown on the return.

22 (c) The taxes required to be paid by this section are due and
23 payable on or before the first day of the first calendar quarter
24 commencing 180 days after the effective date of this act. Payments
25 shall be made by remittances payable to the board and the payments
26 shall accompany the return and forms required to be filed by this
27 section.

28 (d) Any amount required to be paid by this section that is not
29 timely paid shall bear interest at the rate and by the method
30 established pursuant to Section 30202 from the first day of the first
31 calendar quarter commencing 180 days after the effective date of
32 this act, until paid, and shall be subject to determination, and
33 redetermination, and any penalties provided with respect to
34 determinations and redeterminations.

35 30130.53. (a) The State Board of Equalization shall determine
36 within one year of the effective date of this act, and annually
37 thereafter, the effect that the additional taxes imposed on cigarettes
38 by this article, and the resulting increase in the tax on tobacco
39 products required by subdivision (b) of Section 30123, have on
40 the consumption of cigarettes and tobacco products in this state.

1 To the extent that a decrease in consumption is determined by the
2 State Board of Equalization to be a direct result of the additional
3 tax imposed by this article, or the resulting increase in the tax on
4 tobacco products required by subdivision (b) of Section 30123,
5 the State Board of Equalization shall determine the fiscal effect
6 the decrease in consumption has on the Cigarette and Tobacco
7 Products Surtax Fund created by Section 30122 (Proposition 99
8 as approved by the voters at the November 8, 1988, statewide
9 general election), the Breast Cancer Fund created by Section
10 30461.6, the California Children and Families Trust Fund created
11 by Section 30131 (Proposition 10 as approved by the voters at the
12 November 3, 1998, statewide general election), and the General
13 Fund with respect to revenues derived from Section 30101.

14 (b) Funds shall be transferred from the California Tobacco Tax
15 Act of 2015 Fund to the Cigarette and Tobacco Products Surtax
16 Fund, the Breast Cancer Fund, the California Children and Families
17 Trust Fund, and the General Fund, to offset the revenue decrease
18 directly resulting from imposition of additional taxes by this article.

19 (c) Transfers under this section shall be made by the board at
20 times as the board determines necessary to further the intent of
21 this section.

22 30130.54. (a) The California Tobacco Tax Act of 2015 Fund
23 is hereby established in the State Treasury for the purposes set
24 forth in this article. All revenues, less refunds, derived from the
25 taxes imposed by this article shall be deposited in the California
26 Tobacco Tax Act of 2015 Fund.

27 (b) Moneys in the California Tobacco Tax Act of 2015 Fund,
28 less moneys transferred pursuant to Section 30130.53, shall be
29 transferred as follows:

30 (1) ___ percent to the Tobacco Prevention and Education
31 Account, which is hereby created in the California Tobacco Tax
32 Act of 2015 Fund.

33 (2) ___ percent to the Tobacco Disease Related Health Care
34 Account, which is hereby created in the California Tobacco Tax
35 Act of 2015 Fund.

36 (3) ___ percent to the Tobacco Law Enforcement Account,
37 which is hereby created in the California Tobacco Tax Act of 2015
38 Fund.

39 (c) Funds deposited into the California Tobacco Tax Act of
40 2015 Fund may be placed into the Pooled Money Investment

1 Account for investment only, and interest earned shall be credited
2 to the fund and deposited, apportioned, and expended only in
3 accordance with this article and its purposes.

4 (d) Notwithstanding any other law, the California Tobacco Tax
5 Act of 2015 Fund is a trust fund established solely to carry out the
6 purposes set forth in this article and all revenues deposited into
7 the California Tobacco Tax Act of 2015 Fund, together with
8 interest earned by the fund, are hereby continuously appropriated
9 without regard to fiscal year to be expended only in accordance
10 with this article and its purposes.

11 (e) Notwithstanding any other law, the taxes imposed by this
12 article and the revenue derived therefrom, including investment
13 interest, shall not be considered to be part of the General Fund, as
14 that term is used in Chapter 1 (commencing with Section 16300)
15 of Part 2 of Division 4 of the Government Code, shall not be
16 considered General Fund revenue for purposes of Section 8 of
17 Article XVI of the California Constitution, and its implementing
18 statutes, and shall not be considered “moneys to be applied by the
19 state for the support of school districts and community college
20 districts” pursuant to Section 8 of Article XVI of the California
21 Constitution, and its implementing statutes.

22 (f) Notwithstanding any other law, revenues deposited into the
23 California Tobacco Tax Act of 2015 Fund, and any interest earned
24 by the fund, shall only be used for the specific purposes set forth
25 in this article. Revenues deposited into the California Tobacco Tax
26 Act of 2015 Fund shall not be subject to appropriation, reversion,
27 or transfer by the Legislature, the Governor, the Director of
28 Finance, or the Controller for any other purpose, nor shall the funds
29 be loaned to the General Fund or any other fund of the state or any
30 local government fund.

31 (g) All revenues deposited into the California Tobacco Tax Act
32 of 2015 Fund shall be expended only for the purposes expressed
33 in this article, and shall be used only to supplement existing levels
34 of service and not to fund existing levels of service. Moneys in
35 the fund shall not be used to supplant state or local general fund
36 moneys for any purpose.

37 30130.55. After transferring the moneys as required pursuant
38 to subdivision (b) of Section 30130.53 and pursuant to subdivision
39 (b) of Section 30130.54, the Controller shall allocate the moneys

1 from the accounts in the California Tobacco Tax Act of 2015 Fund
2 as follows:

3 (a) The Tobacco Prevention and Education Account shall be
4 allocated to supplement tobacco prevention and control programs
5 as follows:

6 (1) ___ percent to the State Department of Public Health.

7 (2) ___ percent to the State Department of Education.

8 (3) ___percent to the University of California.

9 (b) Funds in the Tobacco Disease Related Health Care Account
10 shall be allocated to the State Department of Health Care Services
11 to improve existing programs to provide quality and access to
12 health care programs for families and children pursuant to Chapter
13 7 (commencing with Section 14000) to Chapter 8.9 (commencing
14 with Section 14700), inclusive, of Part 3 of Division 9 of the
15 Welfare and Institutions Code.

16 (c) Funds in the Tobacco Law Enforcement Account shall be
17 allocated to the State Board of Equalization, the Department of
18 Justice, and the State Department of Public Health for the purpose
19 of supplementing funding for the enforcement of laws that regulate
20 the distribution and sale of cigarettes and other tobacco products,
21 including, but not limited to, laws that prohibit cigarette smuggling,
22 counterfeiting, selling untaxed tobacco, selling tobacco without a
23 proper license, and selling tobacco to minors, and enforcing
24 tobacco-related laws, court judgments, and settlements.

25 (d) Not more than 2 percent of the funds received from the
26 California Tobacco Tax Act of 2015 Fund shall be used by any
27 department for administrative costs.

28 (e) The Department of Justice, the State Department of Public
29 Health, the State Department of Education, the State Department
30 of Health Care Services, and the University of California shall, on
31 an annual basis, publish on their respective Internet Web sites an
32 accounting of moneys received from the California Tobacco Tax
33 Act of 2015 Fund and how the moneys were spent.

34 SEC. 5. Section 30181 of the Revenue and Taxation Code is
35 amended to read:

36 30181. (a) ~~When~~ *If* any tax imposed upon cigarettes under
37 ~~Article 1 (commencing with Section 30101), Article 2~~
38 ~~(commencing with Section 30121), and Article 3 (commencing~~
39 ~~with Section 30131) of Chapter 2~~ *this part* is not paid through the
40 use of stamps or meter impressions, the tax shall be due and

1 payable monthly on or before the 25th day of the month following
2 the calendar month in which a distribution of cigarettes occurs, or
3 in the case of a sale of cigarettes on the facilities of a common
4 carrier for which the tax is imposed pursuant to Section 30104,
5 the tax shall be due and payable monthly on or before the 25th day
6 of the month following the calendar month in which a sale of
7 cigarettes on the facilities of the carrier occurs.

8 (b) Each distributor of tobacco products shall file a return in the
9 form, as prescribed by the board, ~~which~~ *that* may include, but not
10 be limited to, electronic media respecting the distributions of
11 tobacco products and their wholesale cost during the preceding
12 month, and any other information as the board may require to carry
13 out this part. The return shall be filed with the board on or before
14 the 25th day of the calendar month following the close of the
15 monthly period for which it relates, together with a remittance
16 payable to the board, of the amount of tax, if any, due under Article
17 2 (commencing with Section 30121) or Article 3 (commencing
18 with Section 30131) of Chapter 2 for that period.

19 (c) To facilitate the administration of this part, the board may
20 require the filing of the returns for longer than monthly periods.

21 (d) Returns shall be authenticated in a form or pursuant to
22 methods as may be prescribed by the board.

23 ~~(e) This section shall become operative on January 1, 2007.~~

24 SEC. 6. No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.

33 SEC. 7. This act provides for a tax levy within the meaning
34 of Article IV of the Constitution and shall go into immediate effect.

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

1 SECTION 1. Sixty-one million dollars (\$61,000,000) is hereby
2 appropriated from the General Fund to the State Allocation Board
3 *Department of Education* for the 2015–16 fiscal year for
4 apportionment to school districts to meet the matching share
5 requirement of a school construction grant made by the Office of
6 Economic Adjustment of the federal Department of Defense
7 ~~pursuant to federal funding made available~~ to construct, renovate,
8 repair, or expand elementary and secondary public schools located
9 on military installations.

O

SENATE COMMITTEE ON EDUCATION

Senator Liu, Chair
2015 - 2016 Regular

Bill No: SB 111
Author: Fuller
Version: March 4, 2015
Urgency: No
Consultant: Kathleen Chavira
Hearing Date: March 11, 2015
Fiscal: Yes

Subject: School facilities: military installations

SUMMARY

This bill appropriates \$61 million from the General Fund (GF) to the California Department of Education (CDE) for apportionment to school districts to meet the matching share requirements of a specified federal school construction grant program.

BACKGROUND

Current law establishes the School Facility Program (SFP) under which the state provides general obligation bond funding for various school construction projects. AB 127 (Nunez and Perata), the Kindergarten-University Public Education Facilities Bond Act of 2006, authorized Proposition 1D a statewide general obligation bond proposal for \$10.4 billion. Proposition 1D, approved, by the voters in November 2006, provided \$7.3 billion for K-12 education facilities and allocated specified amounts from the sale of these bonds for modernization, new construction, charter schools, Career Technical Education Facilities, joint use projects, new construction on severely overcrowded school sites, and high performance incentive grants to promote energy efficient design and materials. In addition, portions of the amounts allocated for new construction and modernization were authorized for purposes of funding smaller learning communities and small high schools and for seismic retrofit projects. (Education Code § 17078.70-17078.72)

ANALYSIS

This bill appropriates \$61 million from the General Fund (GF) to the CDE for apportionment to school districts to meet the matching share requirements of the United States Department of Defense, Office of Economic Adjustment school construction grant program.

STAFF COMMENTS

1. ***Need for the bill.*** According to the author, California has 11 schools in six districts that are on a priority list for funds from the federal government to address the "serious condition or capacity deficiencies" of public schools on military installations. These schools are eligible to receive funds for this purpose

through the Public Schools on Military Installations Program (PSMI). The program requires a 20 percent non-federal match in order to receive federal funding.

According to the author, about \$61 million is necessary to cover the 20 percent match for the 11 California schools on the list. This bill would appropriate these funds to the California Department of Education for apportionment to the affected school districts and leverage approximately \$240 million in federal funds for the renovation, repair, or reconstruction of these schools.

2. ***Public Schools on Military Installations Program (PSMI).*** According to the Office of Economic Adjustment (OEA), in 2010 the Department of Defense (DOD) evaluated and reviewed the physical condition of the 160 public schools on military installations in the United States. Based on the findings of this assessment, the DOD developed a “Priority List” of public schools on military installations with the most serious condition and/or capacity deficiencies. The OEA was tasked with administering the PSMI program to provide funds to these schools to address these deficiencies.

Between 2011 and 2015, Congress has provided \$945 million to the OEA for the purposes of the PSMI. The last increase in funding for the PSMI (\$175 million) was provided in 2015 by House Resolution 83 (H.R. 83 Section 8017). In addition to the funding increase, H.R. 83 established the 20 percent match as a congressionally mandated requirement and stipulated that the non-federal match was the responsibility of the local education authority (LEA) and the State. The DOD has interpreted the new language to mean that the matching share must be provided by the local education authority (LEA) and or the State in which the school is located and that the OEA may skip eligible school projects on the Priority List if the match is not provided. According to the OEA, once a project on the list has been skipped it will no longer be considered for funding.

According to the OEA, there is approximately \$464 million remaining in the PSMI. The OEA estimates that as many as 33 schools on the list could be assisted.

3. ***Which school districts?*** According to information provided by the OEA, California has 11 schools in six districts that are within the top 33 on the Priority List. These include:
 - A. Murray Middle School at China Lake Naval Air Weapons Station, Sierra Sands Unified School District.
 - B. Forbes Elementary (Currently Branch Elementary) at Edwards Air Force Base, Muroc Joint Unified School District.
 - C. Sherman E. Burroughs High School at China Lake Naval Air Weapons Station, Sierra Sands Unified School District.
 - D. Mary Fay Pendleton Elementary at Marine Corp Base Camp Pendleton, Fallbrook Union Elementary School District.
 - E. San Onofre Elementary School at Marine Corp Base Camp Pendleton, Fallbrook Union Elementary School District.

- F. Miller Elementary School at Naval Base San Diego, San Diego Unified School District.
- G. Scandia Elementary at Travis Air Force Base, Travis School District.
- H. Akers Elementary School at Naval Air Station Lemoore, Central Union High School.
- I. Hancock Elementary School at Naval Base San Diego, San Diego Unified School District.
- J. Desert Junior-Senior High School at Edwards Air Force Base, Muroc Joint Unified School District.
- K. Irving L. Branch Elementary School at Edwards Air Force Base, Muroc Joint Unified School District.

4. ***Should GF monies be used for construction/modernization of school facilities?*** Since about 1978, after the passage of Proposition 13, the state has assisted school districts with their school facility projects through the issuance of voter approved state general obligation bonds. This bill proposes the use of General Fund dollars for the purpose of having the California Department of Education (CDE) apportion funds to meet the facilities needs of a subset of schools.

The committee may wish consider:

- A. Does the committee support a policy to shift the source of state funding for facilities needs from general obligation bonds to the general fund?
 - B. Is the use of GF dollars for the purpose of meeting the facilities needs of this subset of schools a priority for the use of GF monies in the 2015-16 budget?
5. ***Related Governor's budget activity.*** In his 2015-16 Budget Summary, the Governor notes concerns about the complexity and structure of the current School Facility Program and the state's increasing debt service obligations. The Governor has proposed significant changes to the way school facilities are funded with the intent that districts be better able to meet their facilities needs at the local level. The Governor proposes to expand local revenue generation tools by increasing caps on local bond indebtedness, restructuring developer fees, and expanding the allowable uses of Routine Restricted Maintenance Funding. The Governor has also indicated interest in a future state program focused on districts with the greatest need, including communities with low property values and few borrowing options, as well as overcrowded schools.
6. ***Related State Allocation Board activity.*** After an April 2012 briefing on this topic, the SAB took action to establish the Department of Defense Sub-Committee, convened in June 2012, to explore alternatives for assisting

districts with providing the required 20 percent local match for projects on the DOD Priority List.

Among other things, the sub-committee found that:

- A. Program funding from the federal government is based on a cost estimate of the actual work, whereas the School Facility Program (SFP) provides funding in the form of per pupil grants, with some supplemental grants.
- B. Based on the method of calculation, the 20 percent required is based upon a higher amount than the SFP calculations.

Options considered by the sub-committee included reservation of bond authority, transfer of bond authority, loans for the matching share, waiver of the local matching share requirement, and facility hardship funding. Each of these were determined not to be viable.

In August 2012, the State Allocation Board (SAB) considered the recommendations of the sub-committee. The SAB elected to recommend to the Legislature that funding be provided for military base schools in California in the next bond proposal in order to cover the total need for these types of projects.

- 7. ***Related/Prior Legislation.*** SB 121 (Fuller) also on the committee's agenda today, requires that school construction projects on military installations that are eligible for specified federal grants be given priority for funding under the State School Facility program.

SUPPORT

Antelope Valley Board of Trade
Brigadier General, Marine Corps Base Camp Pendleton
Central Union School District
Muroc Joint Unified School District
Sierra Sands Unified School District
Travis Unified School District
Numerous individual letters

OPPOSITION

None received.

-- END --



SB 111

Public Schools near Military Bases Facilities Appropriation

ISSUE

California has 11 schools in 6 school districts in the top 33 of the Secretary of Defense (SECDEF) Priority List, more schools than any other state. These schools qualify for Public Schools on Military Installations (PSMI) Grant Program for renovation, repair or reconstruction of their facilities. The majority of the PSMI eligible school districts in California cannot raise the required 20% match through bond elections due to the fact that in many areas there is low assessed property valuation.

An amount not to exceed \$61 million is required to cover the 20% match for the 11 California schools on the list. Provision of this match will leverage approximately \$240 million in federal funds for renovation, repair or reconstruction of school facilities in CA school districts.

The DoD has given the OEA authority to drop schools on the priority list if 1.) LEAs are unable to come up with their match requirement or 2.) The State the school is in chooses not to cover the match requirement. If California chooses not to help these 11 schools with their 20% match requirement it could jeopardize funding for all California schools on the SECDEF Priority List.

SOLUTION

SB 111 would appropriate \$61 million to the Department of Education to cover the 20% match requirement for the 11 schools in 6 school districts in the top 33 of the SECDEF Priority List.

BACKGROUND

In 2010, the Department of Defense Office of Economic Adjustment (OEA) performed a facilities assessment and a functional adequacy assessment of 160 public schools owned and operated by Local Education Agencies (LEAs) on military installations. Each school was graded red, yellow, or green in two criteria – condition and capacity –

based on the assessment. The OEA developed a priority list (SECDEF Priority List) of the public schools with the installations in order to address the most serious capacity most serious condition and/or capacity deficiencies ranked from worst to best. California has 11 schools in 6 school districts in the top 33 of the SECDEF Priority List, much more than any other state.

Between 2011 and 2013, Congress provided the OEA \$770 million in funding to construct, renovate, repair, or expand elementary and secondary public schools on military or facility condition deficiencies identified on the Secretary's Priority List.

In December 2014 the 113th Congress (2013-2014) passed H.R. 83 – which made an additional appropriation of \$175 million to this fund **AND** additional stipulations on the matching share requirement. Now the matching share is required to be provided by the local education authority the school is located in or the State in which the school is located.

THIS BILL

SB 111 simply helps assist those schools located on military bases that have qualified for the Department of Defense Office of Economic Adjustment School Construction Grant by helping fund their 20% match requirement.

PRINCIPAL COAUTHORS: Wolk & Vidak

COAUTHORS: Chavez, Wilk, Mathis, Lackey, Stone, Maienschein, & Grove

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March 4, 2015

The Honorable Jerry Brown
Governor of California
State Capitol, First Floor
Sacramento, CA 95814

Dear Governor Brown:

The California Legislative Women's Caucus has consistently prioritized childcare policy that addresses the needs of California's most vulnerable families. In order to continue our commitment to ensuring children have access to quality child care and early learning opportunities and economic stability for families, leadership of the Legislative Women's Caucus is requesting an investment of no less than 600 million dollars be dedicated to the child care system. This investment should be evenly distributed between modernizing rates and increasing slots.

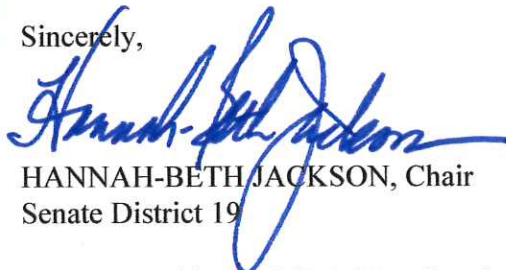
California lost one-third of its child care and development system (over \$1 billion) during the great recession. Our state has a responsibility to begin to fill in the cracks we created over the past several years.

The Legislative Women's Caucus is proud of the efforts we made last year, resulting in additional investment in State Preschool, but it has proved inadequate as California is still meeting less than 18% of the childcare needs for eligible children 0-5.

With one in four of California's children living in poverty and low-income working families struggling to achieve economic security, it is imperative we make additional revenues available to invest in the child care delivery system.

We look forward to continuing the conversation of child care investment as the budget process progresses. We would love the opportunity to discuss this matter further.

Sincerely,



HANNAH-BETH JACKSON, Chair
Senate District 19



CRISTINA GARCIA, Vice-Chair
Assembly District 58

CC: Honorable Toni G. Atkins, Speaker of the Assembly
Honorable Kevin de León, President pro Tem of the Senate
Honorable Shirley Weber, Chair – Assembly Budget Committee
Honorable Mark Leno, Chair – Senate Budget Committee
Members, Assembly Budget Committee
Members, Senate Budget Committee

Solano County 2015 Bill List

Thursday, April 02, 2015

BILL ID/Topic	Location	Summary	Solano Position	CSAC Position	LCC Position
AB 45 Mullin D Household hazardous waste.	3/23/2015-A. L. GOV. 3/23/2015-Re-referred to Com. on L. GOV. Heard	Would require each jurisdiction that provides for the residential collection and disposal of solid waste, on or before an unspecified date, to increase the collection and diversion of household hazardous waste in its service area by an unspecified percentage over a baseline amount, to be determined in accordance with Department of Resources Recycling and Recovery regulations. The bill would authorize the department to adopt a model ordinance for a door-to-door collection and diversion program to facilitate compliance with those provisions, and would require each jurisdiction to annually report to the department on progress achieved in complying with those provisions. Last Amended on 3/19/2015	Watch	Pending	Watch
AB 50 Mullin D Nurse-Family Partnership.	1/22/2015-A. HEALTH 1/22/2015-Referred to Com. on HEALTH. Heard 4/7/2015 1:30 p.m. - State Capitol, Room 4202 ASSEMBLY HEALTH, B ONTA, Chair	Would declare the intent of the Legislature to develop a means to leverage public and private dollars to substantially expand the scale of the Nurse-Family Partnership in California, in accordance with specified findings. The bill would revise the requirements relating to the award and use of Nurse-Family Partnership grants, including eliminating a requirement for nurse home visitors and supervisors to receive certain training in effective home visitation techniques.	Support	Pending	
AB 171 Irwin D Department of Veterans Affairs: veterans' services.	3/25/2015-A. APPR. SUSPENSE FILE 3/25/2015-In committee: Set, first hearing. Referred to suspense file. Heard	Would continuously appropriate the sum of \$5,600,000 from the General Fund to the Department of Veterans Affairs to be available for allocation to counties to fund the activities of county veterans service officers, as specified. The bill would require the department, no later than July 1, 2016, to develop an allocation formula based upon performance standards that encourage innovation and reward outstanding service by county veterans service officers, and would require those continuously appropriated moneys to be allocated in accordance with that formula, as specified. Last Amended on 3/17/2015	Support	Support	
SB 12 Beall D Foster youth.	3/24/2015-S. JUD. 3/24/2015-Do pass as amended, and re-refer to the Committee on Judiciary. Agenda	Would revise the definition of a nonminor dependent and former nonminor dependent to include a nonminor who was subject to an order for foster care placement at any time before he or she attained 12 years of age and who has not attained 21 years of age. This bill would make conforming changes to allow a court to assume or resume dependency jurisdiction or transition jurisdiction over a nonminor who satisfies this criteria. Because the bill would expand the application of the above county administered programs, the bill would impose a state-mandated local program. This bill contains other related provisions and other existing laws. Last Amended on 3/17/2015			

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SB 23 Mitchell D CalWORKs: eligibility.	3/25/2015-S. APPR. 3/25/2015-From committee: Do pass and re-refer to Com. on APPR. (Ayes 4. Noes 0.) (March 24). Re-referred to Com. on APPR. Agenda 4/13/2015 10 a.m. - John L. Burton Hearing Room (4203) SENATE APPROPRIATIONS, LARA, Chair	Under current law, for purposes of determining a family's maximum aid payment under the CalWORKs program, the number of needy persons in the same family is not increased for any child born into a family that has received aid under the CalWORKs program continuously for the 10 months prior to the birth of the child, with specified exceptions. This bill would repeal that exclusion for purposes of determining the family's maximum aid payment and would expressly prohibit the denial of aid, or the denial of an increase in the maximum aid payment, if a child, on whose behalf aid or an increase in aid is being requested, was born into an applicant's or recipient's family while the applicant's or recipient's family was receiving aid under the CalWORKs program.		Pending	
SB 24 Hill D STAKE Act: electronic cigarettes.	1/15/2015-S. HEALTH 3/10/2015-Set for hearing April 8. Agenda 4/15/2015 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE HEALTH, HERNANDEZ, Chair	Would extend the STAKE Act to sales of electronic cigarettes to minors. The bill would require the State Department of Public Health to enforce the STAKE Act's provisions with regard to sales of electronic cigarettes commencing July 1, 2016. This bill contains other related provisions and other existing laws.			Watch
SB 111 Fuller R School facilities: military installations.	3/11/2015-S. APPR. 3/11/2015-From committee: Do pass and re-refer to Com. on APPR. (Ayes 6. Noes 0.) (March 11). Re-referred to Com. on APPR. Agenda	Would appropriate \$61,000,000 from the General Fund to the State Department of Education for the 2015-16 fiscal year for apportionment to school districts to meet the matching share requirement of a school construction grant made by the Office of Economic Adjustment of the federal Department of Defense to construct, renovate, repair, or expand elementary and secondary public schools located on military installations. Last Amended on 3/4/2015			
SB 140 Leno D Electronic cigarettes.	3/10/2015-S. HEALTH 3/18/2015-Set for hearing April 8. Agenda 4/8/2015 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE HEALTH, HERNANDEZ, Chair	Would change the STAKE Act's definition of tobacco products to include electronic devices, such as electronic cigarettes, that deliver nicotine or other substances, and make furnishing such a tobacco product to a minor a misdemeanor. This bill contains other related provisions and other existing laws. Last Amended on 3/10/2015		Pending	Watch
SB 151 Hernandez D Tobacco products: minimum legal age.	2/19/2015-S. HEALTH 3/18/2015-Set for hearing April 8. Agenda 4/8/2015 1:30 p.m. - John L. Burton Hearing Room (4203) SENATE HEALTH, HERNANDEZ, Chair	The Stop Tobacco Access to Kids Enforcement (STAKE) Act, establishes various requirements for distributors and retailers relating to tobacco sales to minors. Current law requires the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 18 years of age. This bill would extend the applicability of those provisions to persons under 21 years of age. The bill would authorize the State Department of Public Health to conduct random, onsite sting inspections of tobacco product retailers with the assistance of persons under 21 years of age.		Watch	Watch

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<p>SB 591 Pan D</p> <p>Cigarette and tobacco products taxes: California Tobacco Tax Act of 2015.</p>	<p>3/12/2015-S. G. & F. 3/24/2015-April 8 set for first hearing canceled at the request of author.</p> <p>Agenda</p> <p>4/8/2015 Anticipated Hearing SENATE G. & F., Not in daily file.</p>	<p>Would, on or after the first day of the first calendar quarter commencing more than 90 days on or after the effective date of the bill, impose an additional tax on the distribution of cigarettes at the rate of \$0.10 for each cigarette distributed which would be \$2.00 per pack; would require a dealer and a wholesaler to file a return with the State Board of Equalization showing the number of cigarettes in its possession or under its control on that date, and impose a related floor stock tax; and would require a licensed cigarette distributor to file a return with the board and pay a cigarette indicia adjustment tax at the rate equal to the difference between the existing tax rate and the tax rate imposed by this bill for cigarette tax stamps in its possession or under its control on that date.</p>		Watch	Watch

Total Measures: 10