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## *California State Senate*

### COMMITTEE ON BUDGET AND FISCAL REVIEW

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September 6, 2011  
Upon Adjournment of Session  
State Capitol, Room 4203

<u>BILL</u>	<u>AUTHOR</u>	<u>SUBJECT</u>
AB 16X	Blumenfield	Local Revenue Fund 2011
AB 17X	Blumenfield	Criminal Justice Realignment of 2011
AB 20X	Blumenfield	Budget Act of 2011: Director of Finance: reductions
AB 24X	Blumenfield	State responsibility areas: fire protection fees
AB 25X	Blumenfield	Redevelopment
AB 31X	Calderon	Redevelopment
AB 32X	Blumenfield	Education finance

**SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW**  
*Mark Leno, Chair*

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<b>Bill No:</b>	<b>ABX1 16</b>
<b>Author:</b>	<b>Blumenfield</b>
<b>As Amended:</b>	<b>September 2, 2011</b>
<b>Consultant:</b>	<b>Keely Martin Bosler and Jennifer Troia</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>September 6, 2011</b>

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**Subject:** Budget Act of 2011

**Summary:** This bill makes clarifying amendments necessary to implement the 2011 Public Safety Realignment that was contained in Chapter 40, Statutes of 2011 (AB 118, Budget).

**Background:** Chapter 40, Statutes of 2011 (AB 118, Budget) created the Local Revenue Fund 2011 for the deposit of \$5.6 billion to support 2011 Public Safety Realignment. The 2011 Public Safety Realignment includes realigning funding and in some cases responsibility for various public safety services from the State to local governments. Public Safety services included in the realignment include broadly: (1) low-level offenders and parole violators, adult parole, and funding for various local law enforcement programs historically funded by the State; (2) mental health services; (3) substance abuse treatment; (4) foster care, child welfare services, and adoptions; (5) adult protective services; and (6) court security. The 2011 Public Safety Realignment is funded with the redirection of 1.06 percent of the existing state sales tax (\$5.1 billion) and the redirection of \$454 million of existing vehicle license fee revenues from the Department of Motor Vehicles and general-purpose local government support to the Local Revenue Fund 2011.

**Proposed Law:** This bill makes statutory changes necessary to implement the 2011 Public Safety Realignment, as follows:

- 1) Creates the Undistributed Account in the Local Revenue Fund 2011 for the deposit of any monies in the fund that are not otherwise distributed to the other accounts as described in Section 30027 of the Government Code. This will enable clear accounting for all the funds deposited in the Local Revenue Fund 2011.

Specifies that any funds deposited in the Undistributed Account may be used to reimburse the General Fund for costs incurred and expenditures made by the State on behalf of any local government entity in providing Public Safety Services as defined by subdivision (i) of Section 30025 of the Government Code. Also specifies that funds deposited in the Undistributed Account may be available for transfer to the Local Law Enforcement Services Account to permit the full allocation to those programs as described in subdivision (e) of Section 30029 of the Government Code.

- 2) Creates a Foster Care Administration Subaccount that is separate from the Foster Care Assistance Subaccount in the Health and Human Services Account of the Local Revenue Fund 2011. This will enable a clear accounting of funding dedicated to supporting foster care assistance separate from funding that is used for administrative purposes.
- 3) Clarifies that funds deposited in the Local Revenue Fund 2011 may be used to pay for state agency or department costs incurred during the 2011-12 fiscal year related to the realignment of public safety services programs. The Department of Finance is authorized to determine the time, manner, and amount that the state should be reimbursed.
- 4) Clarifies that costs for the Title IV-E Child Welfare Waiver Demonstration Capped Allocation Project are an eligible use of the Local Revenue Fund 2011 funds allocated to the Foster Care Administration Subaccount and the Child Welfare Services Subaccount.
- 5) Specifies that realignment moneys are considered state funds for the purposes of maintaining the nonfederal share of Medicaid expenditures for purposes of Section 5001(g)(2) of the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5) and Section 100201(c)(6) of the federal Patient Protection and Affordable Care Act (Public Law 111-148).
- 6) Adjusts the statutory funding allocations among the Subaccounts in the Health and Human Service Account from the Local Revenue Fund 2011.
- 7) Clarifies that counties may contract directly with the state Departments of Alcohol and Drug Programs, Health Care Services, and Social Services, as applicable, for the administration of Medi-Cal Drug Treatment programs and agency adoptions, as specified.
- 8) Requires that counties redirect savings they achieve as a result of the shift of residential placement costs for seriously emotionally disturbed youth from the Department of Social Services to the Department of Education to supplement foster care, child welfare and adoptions program expenditures. Specifies that these funds shall not supplant other expenditures for these programs. Requires the Department of Social Services, in conjunction with the Department of Finance and the County Welfare Directors Association, to calculate the amount of savings each county is responsible for redirecting as described. Finally, specifies that this redirection is not intended to result in any net costs to any county.
- 9) Requires that cities that accept funds from the Local Law Enforcement Services Account in the Local Revenue Fund 2011 be required, as a condition of receipt, to maintain its overall funding for frontline municipal police services at or above the 2010-11 fiscal year level.

- 10) Specifies that the State Controller distribute funds for specified local law enforcement programs that are part of the 2011 Public Safety Realignment that were previously allocated by California Emergency Management Agency (Cal-EMA) and limits Cal-EMA's administrative costs to \$511,000.
- 11) Creates the CalWORKs Maintenance of Effort (MOE) Subaccount in the 1991 realignment Local Revenue Fund and in specified local health and welfare trust funds. Redirects funds that would otherwise have been deposited in the 1991 realignment Mental Health Subaccount to this new CalWORKs MOE Subaccount. Additionally, directs that those funds shall be used to support a greater annual contribution by counties toward the costs of CalWORKs grants, as specified.
- 12) Directs the Office of Systems Integration to oversee the development of a new Statewide Automated Welfare System (SAWS) consortium that will include the 39 counties that currently comprise the C-IV consortium and Los Angeles County, as specified. Requires the Office of Systems Integration to include related information in its annual report on SAWS for 2012.
- 13) Requires each SAWS consortium to provide a seat on its governing body for a representative of the state and to allow for the stationing of state staff at the project site.
- 14) Requires that the Department of Finance report to the Joint Legislative Budget Committee on or before May 30, 2011 regarding the allocation of funds in the Local Revenue Fund 2011, including estimated amounts used to reimburse the State and estimated use of funds in the Undistributed Account.
- 15) Includes intent language that legislation enacted to implement 2011 Realignment address funding necessary for local public safety to achieve successful outcomes from the implementation of AB 109 and funding for Child Welfare Services and Foster Care Programs necessary to achieve critical outcomes, including state and federal performance reviews.
- 16) Clarifies that the Youthful Offender Block Grant program is funded from the Local Revenue Fund 2011 and not the General Fund for the 2011-12 fiscal year.
- 17) Clarifies that counties that do not have a public defender's office are still eligible for the allocation of funding, as specified, to support parole revocation proceedings involving persons subject to state parole and the Postrelease Community Supervision Act of 2011 (Chapter 15, Statutes of 2011 [AB 109, Budget]).
- 18) Confirms all county realignment accounts so that they are not interest bearing accounts.

**Fiscal Effect:** Overall fiscal effects of this bill are unknown, but may cost the State tens of thousands related to the creation of new accounts within the State Treasury. There will be future costs associated with the development of a SAWS consortium that includes the counties currently served by C-IV and Los Angeles County; however, there is not enough information at this time to compare those costs to the costs of developing a new system for Los Angeles, which has already been approved by the Legislature, while also continuing to support the C-IV consortium.

Overall 2011 Public Safety Realignment is expected to save the State up to \$2 billion when it is fully implemented mainly from the reduction in State prison and parole activities.

**Support:** Unknown

**Opposed:** Unknown

**Comments:** This bill makes clarifying amendments needed to ensure implementation of Chapter 40, Statutes of 2011 (AB 118, Budget), which provided the overall framework to enable the 2011 Public Safety Realignment. The allocation of the funding for 2011 Public Safety Realignment is for one fiscal year, ending June 30, 2012. Additional legislation will be needed in the upcoming year to address funding for realignment after July 1, 2012.

\*\*\*\* END \*\*\*\*

**SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW**  
*Mark Leno, Chair*

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<b>Bill No:</b>	<b>ABX1 17</b>
<b>Author:</b>	<b>Blumenfield</b>
<b>As Amended:</b>	<b>September 2, 2011</b>
<b>Consultant:</b>	<b>Joe Stephenshaw</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>September 6, 2011</b>

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**Subject:** Public Safety Realignment.

**Summary:** These amendments make substantive and technical changes relevant to AB 109 (Ch. 15, Stats. 2001) and related budget trailer bills pertaining to the Public Safety Realignment of 2011.

**Background:** In March of this year, the Legislature passed AB 109 (Ch.15, Stats. 2011), which generally provides for the realignment of certain felons and parolees from state to local jurisdictions. The Legislature subsequently passed clean-up trailer bills which made specified technical and conforming revisions consistent with, and within the framework of, that measure. (See AB 117 (Committee on Budget) (Ch. 39, Stats. 2011); AB 116 (Committee on Budget) (Ch. 136, Stats. 2011). These amendments make the specified technical and conforming revisions consistent with, and within the framework of, these measures.

**Proposed Law:** This bill does the following:

**Sentencing**

Penal Code section 17, which contains the definition of a felony and was amended by AB 109 to include in the definition of a felony crimes punishable by imprisonment in a county jail for more than one year, is amended to instead include in the definition of a felony crimes punishable under the provisions of subdivision (h) of Penal Code section 1170, which describes the felonies subject to imprisonment in a county jail. The amendments also include technical corrections relating to the Division of Juvenile Justice.

Penal Code section 18, which pertains to felony punishment, is amended technically to clarify its application, as specified.

Subdivision (h) of Penal Code section 1170, which was added by AB 109 and pertains to felonies subject to imprisonment in the county jail, is amended to 1) clarify the language describing the exceptions to felony jail, including out-of-state convictions and juvenile adjudications; and 2) clarify the authority of a court to commit a defendant to county jail when imposing a sentence under these provisions, as specified. The amendments also include non-substantive chaptering amendments, as specified.

Penal Code section 1170.1, pertaining to aggregate terms of imprisonment, is amended to clarify the application of sentencing enhancements to state prison and jail felony terms.

Penal Code section 273d, pertaining to corporal punishment or injury to a child, is technically amended in provisions relating to sentencing enhancements for priors to include technical cross-references to Penal Code section 1170(h).

Penal Code section 667.5, pertaining to penalty enhancements for priors, is amended to make cross-referencing changes to Penal Code section 1170(h) and clarify that terms that allow for a portion of the term to be served on post-release supervision, as ordered by the court, shall qualify for the enhancement as specified.

These amendments include the following crimes as felonies subject to imprisonment in state prison and not county jail:

- Penal Code section 4501.1 (battery on peace officer by gassing);
- Penal Code section 4530 (escape from prison facility);
- Penal Code section 12021.5 (possession of firearm during street gang crime); and
- Penal Code section 12025 (unlawfully carrying a concealed firearm).

The amendments include the following crimes as felonies subject to imprisonment in county jail if otherwise statutorily qualified:

- Health and Safety Code § 11355 (sale or furnishing substance falsely represented to be a controlled substance); and
- Health and Safety Code § 11382 (sale or furnishing substance falsely represented to be a controlled substance).

### **Custody Credits**

Penal Code section 2932, pertaining to time credits for state prison inmates, is repealed and re-enacted by these amendments to restore these provisions to the law as it was prior to the enactment of AB 109, and to delete cross-references to county jail inmates, as specified. These changes essentially maintain the state prison inmate credit process authorized pursuant to SBx3 18 (Ducheny) (Ch. 28, Stats. 2009).

Penal Code section 2933, also pertaining to time credits for state prison inmates, is amended to delete subdivision (e) of that section pertaining to time served in a county facility, as specified. This amendment makes pre-sentence custody credits earned in county jail consistent with post-sentence credits.

Penal Code section 4019, pertaining to time credits while in custody in county facilities, is amended to provide that day-for-day credits available for jail inmates also apply to inmates confined in a local facility as a result of a sentence imposed pursuant to Penal Code section 1170(h), and to expressly exclude periods of “flash” incarceration from credits otherwise available under this section.

Penal Code section 4019.2, is added to establish that inmates sentenced to county jail and assigned to a fire camp receive two-for-one credit consistent with similar provisions for prison inmates.

### **Parole and Post-release Community Supervision**

Penal Code section 3000.08, as enacted by AB 117 and amended by AB 118, pertaining to prison inmates who are statutorily ineligible for post-release community supervision (and therefore subject to state parole), is amended to provide for a period of state parole up to three years or the parole term they were subject to when they committed a new felony if, while on parole, the person 1) was subject to sex offender registration and committed a felony for which they were convicted and sentenced to state prison; or 2) was on life parole and committed a felony for

which they were convicted and sentenced to state prison. This language is intended to ensure that sex offender and lifer state parolees who are convicted of a new non-serious, non-violent, non-sex felony while on parole will continue to be subject to state parole for a period at least as long as the parole period they were subject to when they committed the new crime.

Penal Code section 3000.09, as enacted by AB 109 and amended by AB 116, generally pertains to “grandfathered” parolees who were paroled from state prison prior to October 1, 2011. These amendments clarify that any discretionary discharge of a grandfathered parolee after six consecutive months of being violation free will not apply to parolees who 1) are subject to a parole period that exceeds three years; 2) were imprisoned for a serious or violent offense; or 3) are required to register as a sex offender, as specified. These amendments also provide that grandfathered parolees being held for a parole violation in state prison on October 1, 2011, upon completion of a revocation term on or after November 1, 2011, shall be subject to parole or post-release community supervision according to their offense history, as provided by the 2011 public safety realignment measures previously enacted. These amendments further clarify that parolees in county jail on October 1, 2011 serving a parole revocation term who are released from jail without returning to a state facility on or after October 1, 2011 shall remain under the jurisdiction of CDCR state parole. These amendments clarify that any parolee in jail or state prison pending a final adjudication of a parole revocation charge prior to October 1 may be returned to state prison for up to 12 months, as specified, and that any subsequent parole revocations of a parolee on post-release community supervision shall be served in county jail. These amendments also technically conform this section to reflect the applicable parole revocation procedures until July 1, 2013.

Penal Code section 3001, as amended by AB 109 and AB 117, provides that inmates who are subject to up to three years of parole supervision may be discharged from parole after six months of continuous parole supervision unless CDCR recommends that the person be retained on parole and makes a determination based on good cause that the person should remain on parole. These amendments clarify that this provision does not apply to persons imprisoned for committing a violent or serious felony, or who are required to register as a sex offender.

Penal Code section 3056, pertaining to custodial sanctions for parolees on and after October 1, 2011, is amended to add a cross-reference to “grandfathered” parolees under Penal Code section 3000.09(c), thereby excepting these parolees from the custodial provisions and limitations provided in this section.

Penal Code section 3057, pertaining to the confinement in state prison pursuant to a parole revocation and, after October 1, 2011 applicable only to life-term inmates, is amended to also apply to parolees who on or before September 30, 2011 are pending a final adjudication of a parole revocation charge and are subject to Penal Code section 3000.09(c).

Penal Code section 3060.7, relating to notifying persons released on parole who have been classified as included within the highest control or risk classification that they are required to report to his or her parole officer within two days of release from state prison, is amended to include within its provisions inmates released on post-release community supervision, and to provide that these persons cannot be released on a holiday or weekend.

Penal Code section 3067, pertaining to the warrantless search or seizure of parolees and the time credit consequences of an inmate who does not agree to this condition of release, as specified, is amended to include a cross-reference to persons subject to post-release community supervision.

Penal Code section 3073.1, pertaining to services for inmates released on post-release community supervision with mental health problems, is amended to replace a reference to “day treatment and crisis care” to “correctional clinical” services.



Penal Code section 3450, pertaining to post-release community supervision, is amended to revise the definition of short-term “flash” incarceration from a period of not more than seven days to not more than 10 days, technically conforming this language to other provisions provided in previously enacted 2011 public safety realignment legislation.

Penal Code section 3453, pertaining to post-release community supervision agreements, is amended to require that inmates also agree to be subject to arrest with or without warrant where there is probable cause to believe the person has violated a term or condition of his or her release on post-release community supervision, as specified.

Penal Code section 3454, pertaining to programs of post-release supervision, is amended to expressly include the availability of continuous electronic monitoring, as specified.

Penal Code section 3455, pertaining to the process for petitioning for a revocation and termination of post-release community supervision, is amended to include technical drafting clarifications, to expressly authorize peace officers to arrest a person on post-release supervision where there is probable cause to believe the person is violating a term of release, as specified, and to expressly authorize county supervising officers to seek a warrant, and a court or its subordinate officer to issue, a warrant for the person’s arrest, as specified. The amendments also add tolling language suspending the supervision period where a person subject to supervision is subject to an arrest warrant for failure to appear.

Penal Code section 3456, pertaining to the duration of post-release community supervision, is amended to include technical clarifying language, and to expressly provide that any period of time during which a person has absconded shall not be credited towards any period of post-release supervision.

Penal Code section 3460, is added by these amendments to provide a process for county transfers of persons subject to post-release community supervision, as specified.

Penal Code section 3465 is added by these amendments to expressly provide that every person subject to post-release community supervision, and their residences and possessions, are subject to search or seizure at any time of the day or night with or without a warrant, by a supervising agent or peace officer.

### **Miscellaneous**

Government Code section 26605, pertaining to the sole and exclusive authority of the sheriff over the county jail, is amended to include a cross-reference to persons confined for a violation of the terms and conditions of post-release community supervision.

Government Code section 30025, pertaining to the “Local Revenue Fund 2011,” including the “District Attorney and Public Defender Account,” is amended to include language including counties where no public defender’s office is established.

Penal Code section 800, pertaining to the statute of limitations, is amended to include a cross-reference to offenses subject to imprisonment in the state prison for eight years or more, thereby technically correcting amendments previously made to this section by AB 117 earlier this year.

Penal Code section 4000, pertaining to the uses of jails, is revised to include a cross-reference to persons confined for violating terms relating to post-release community supervision, as specified.

These amendments make additional technical revisions concerning operative dates of the 2011 public safety realignment, as specified.

These amendments appropriate \$1000.00 to CDCR, as specified.

These amendments contain legislative intent language concerning the enactment of the 2011 public safety realignment with respect to the management of the prison population and expressly states it constitutes the approval required by Section 2 of Chapter 706 (Statutes of 2007) relating to the conversion of a female prison to a male prison.

These amendments contain non-substantive chaptering amendments.

**Support:** Unknown.

**Opposed:** Unknown.

**Comments:** Upon AB 109 becoming operational, this bill becomes operative October 1, 2011.

**SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW**  
*Mark Leno, Chair*

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<b>Bill No:</b>	<b>ABX1 20</b>
<b>Author:</b>	<b>Blumenfield</b>
<b>As Amended:</b>	<b>September 1, 2011</b>
<b>Consultant:</b>	<b>Keely Bosler and Kris Kuzmich</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>September 6, 2011</b>

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**Subject:** Implementation of expenditure reductions based on a revenue trigger.

**Summary:** This bill makes necessary changes to implement expenditure reductions in 2011-12 if revenues fall below forecast levels, as specified in Section 3.94 of the 2011 Budget Bill.

**Background:** The 2011 Budget Bill anticipates General Fund revenues of \$88.5 billion. Per Section 3.94 of the 2011 Budget Bill, the Department of Finance is required to provide notification to the Joint Legislative Budget Committee by December 15, 2011, with an updated revenue forecast for 2011-12. Section 3.94 further states that if revenues are forecast to be lower by \$1 billion to \$2 billion, expenditure cuts of \$600 million are triggered on. If revenues are forecast to be lower by more than \$2 billion, then additional expenditure cuts of \$1.9 billion are triggered on. Related legislation in the enacted 2011 budget package included the statutory provisions to implement these reductions.

**Proposed Law:** If Section 3.94 of the 2011 Budget Bill is operative because revenues are below forecast, this bill makes further changes to implement the trigger reductions, including the following:

1. **Community College Fee Increase Trigger.** Makes the statutory changes necessary to specify that the community college fee increase trigger of \$10 per unit (to a total of \$46 per unit) would commence in the “summer” term of the 2012 calendar year. Current law states that the fee increase trigger will commence in the “winter” term of the 2011-12 academic year.

Adopts a statement of legislative intent that trigger reductions made by community college districts in 2011-12 pursuant to Section 3.94 reflect the one-time nature of the statewide \$30 million reduction imposed as a result of delaying the \$10 per unit student fee increase from the winter term to the summer term. Further, and until the increased fees are collected, it is the intent of the Legislature that districts should, to the extent possible, make every effort to implement reductions in a manner that will minimize the impact on course offerings and programs needed by students to achieve their basic skills, workforce training, or transfer goals.

2. **2011 Budget Act Trigger Reductions.** Requires the Director of Finance to make every effort to notify the Legislature by December 9, 2011, of the specific trigger reductions that are proposed and, at least ten days prior to implementing the trigger reductions, consult with the Legislature about the reductions as well as alternative budget solutions to those set forth in current law, as specified.

**Support:** Unknown.

**Opposed:** Unknown.

**Comments:** This act is a bill providing for appropriations related to the Budget Bill and would take effect immediately.

\*\*\*\* END \*\*\*\*

**SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW**  
*Mark Leno, Chair*

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<b>Bill No:</b>	<b>ABX1 24</b>
<b>Author:</b>	<b>Blumenfield</b>
<b>As Amended:</b>	<b>September 1, 2011</b>
<b>Consultant:</b>	<b>Catherine Freeman</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>September 6, 2011</b>

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**Subject:** This bill provides the necessary statutory changes in the area of Resources and State Fire Protection in order to enact the 2011 Budget Act.

**Summary:** Implementation of a fire protection fee within the State Responsibility Area.

**Background:** Existing law requires the state, mainly through the Department of Forestry and Fire Protection, to have primary financial responsibility for preventing and suppressing fires in areas that the State Board of Forestry and Fire Protection has determined are state responsibility areas (SRA). The 2011 Budget Bill anticipates expenditures related to both private benefits and public benefits within fire protection in SRA.

**Proposed Law:** This bill provides the necessary statutory changes in the area of Resources and State Fire Protection in order to enact the 2011 Budget Act. Specifically, the bill provides for a fire protection fee to pay, in part, for the private benefits conferred upon property owners in State Responsibility Areas.

1. **New Fire Protection Fee in State Responsibility Areas.** Imposes an annual fire protection fee on structures located in the State Responsibility Areas (SRA) of not less than \$175 for the first structure and \$25 for each subsequent structure on the property as determined by the Board of Forestry and Fire Protection. Imposes an additional one dollar per acre fee for the first 100 contiguous acres owned, 50 cents per acre for the next 900 contiguous acres owned, and 25 cents for additional acres not to exceed a total of \$3,000 for 10,000 acres or more.
2. **Fee Reduction for Properties in Fire Protection Districts.** Authorizes the State Board of Forestry and Fire Protection to allow a \$25 reduction to the structural component of the fire protection fee for those property owners in an established fire protection district.
3. **Defines Public and Private Benefits of State Fire Protection.** Provides findings that describe the greater benefit that private landowners receive from fire protection activities in the SRA versus benefits to the general public.
4. **Provides Funding for Specific Benefits.** Requires the fee proceeds to be available, upon appropriation by the Legislature, for fire protection as well as local assistance and fire prevention activities.
5. **Board of Equalization Fee Collection.** Directs the State Board of Equalization (BOE) to collect the fee and deposit funds into the State Responsibility Area Fire Protection Fund.

6. **Provides for an Appeals Process.** Establishes an appeals process for anyone who is required to pay the fee that would authorize BOE to eliminate or change the fee should this chapter not apply or apply differently to the fee payer.

**Fiscal Effect:** Estimated revenues of about to \$100 million.

**Support:** Unknown

**Opposed:** Unknown

**Comments:** This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

**SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW**  
*Mark Leno, Chair*

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<b>Bill No:</b>	<b>ABX1 25</b>
<b>Author:</b>	<b>Blumenfield</b>
<b>As Amended:</b>	<b>September 2, 2011</b>
<b>Consultant:</b>	<b>Brian Annis</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>September 6, 2011</b>

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**Subject:** Redevelopment

**Summary:** This bill makes various changes to implement the redevelopment package adopted in AB 26X and AB 27X as part of the 2011-12 budget. Generally, these changes grant additional flexibility to redevelopment agencies (RDAs) and cities and counties to make annual payments, but also maintain the anticipated General Fund budget solution in 2011-12. This bill also adds protection for low- and moderate- income housing (low-mod) funds by specifying in the case of an eliminated RDA, that existing balances are retained for low-mod purposes and affordability covenants are retained. This bill makes other follow-up changes to address unforeseen circumstances that are consistent with the original intent.

**Background:** As part of the 2011-12 budget package, AB 26X eliminates the current redevelopment program, and AB 27X provides for a voluntary alternative redevelopment program if communities meet specified conditions to opt-in. Among the requirements for the voluntary program, are that the community (a city or county) agrees to remit a proportional share of approximately \$1.7 billion in 2011-12, and about \$400 million ongoing, to supplement funding for education, fire protection, and transit. The \$1.7 billion in 2011-12 is a budget solution for the State General Fund, and the out-year funding is a net new benefit to education, transit districts and fire districts. An RDA may enter an agreement with the city or county to transfer a portion of its tax increment to the city or county up to the amount of the remittance for that year.

**Proposed Law:** This bill includes the following key changes:

New flexibility for communities/RDAs to make remittances:

1. Allows an RDA two additional years to shift funds to a city or county for the 2011-12 remittance - the city or county would still remit the full amount to education in 2011-12 that provides for State General Fund relief. Under current law, an RDA may enter an agreement to transfer a portion of its tax increment to the city or county up to the amount of the community remittance for that year. This bill would allow the RDA to enter an agreement with the city or county to transfer a portion of its tax increment over a period of three years associated with the 2011-12 remittance.
2. If specified restrictions are met, allows RDAs five additional years to repay the Low and Moderate Income Housing Fund (Low-Mod) for the 2009-10 and 2010-11 loans. Loans from Low-Mod funds were authorized to assist RDAs in making the payments to the Supplemental Education Revenue Augmentation Fund (SERAF) in 2009-10 and 2010-11 and repayment is due by June 30, 2015, and by June 30, 2016, respectively. Under current law, if repayment is not fully made by the due dates, the annual Low-Mod set-aside of RDA funds is increased from 20 percent to 25 percent. This bill would extend the repayment of these loans to June 30, 2020, and June 30, 2021, if the RDA is unable to meet the current loan repayment due dates because of AB 27X and other expenditures. If conditions are met to delay the loan repayment, RDAs must adopt

a repayment plan including repayment of 20-percent of any outstanding balance each year starting in 2015-16. Also, if conditions are met to delay the loan repayment, the penalty of a 25-percent Low-Mod set-aside would not apply unless the new due dates are unmet.

Low and Moderate Income Housing Protection:

3. Provides additional protection to existing Low-Mod balances when the community/RDA rejects the alternative program – clarifies that funds would go to the local housing agency (or the State Department of Housing and Community Development if rejected at the local level) and the funds would be restricted in expenditure to existing Low-Mod activities.
4. Requires, instead of allows, the local housing agency to enforce affordability covenants.

Follow-up for unforeseen circumstances consistent with original intent:

5. During the RDA freeze period, which is between before establishment of either the Successor Agency or a community's opt-in to the voluntary alternative redevelopment program, allows refunding bonds to also be used for expiring lines of credit. Current law allows the use of refunding bonds if needed to make a required payment on existing debt service. This bill also clarifies that letters of credit can be extended.
6. If the RDA freeze period is extended beyond October 1, 2011, (for example, due to court action), clarifies that the provisions of an employee MOU remain in place until the freeze period ends. Also specifies that the provision of an MOU apply in the case of an employee reassigned or promoted to fill an existing vacancy.
7. In the case of an eliminated RDA, clarifies that a member of the Oversight Board, including the member representing employees of the former RDA, can vote to approve a new contract as needed for an enforceable obligation, and that no conflict exists between such a vote and current law.
8. In considering a hardship appeal under the existing provisions of AB 27X, allows the Director of Finance to adjust for the reduction in tax increment attributable to an RDA reaching its debt cap after the 2008-09 Controller report.
9. For a Successor Agency, allows for flexibility to retain the property tax used for specified debt, if that debt is repaid, but other debt increases.

Technical Fixes and Clarifications:

10. Clarifies or corrects code section references.
11. Addresses a technical glitch in the out-year remittance formula that would have allowed an RDA to zero-out its ongoing base payment with debt-service manipulation.
12. Clarifies that supplemental and state-assessed unitary property tax increment that RDAs receive is treated in the same manner as baseline RDA increment.
13. Clarifies that the loan provisions of the 2009 RDA legislation (AB 26, Statutes of 2009) related to a city's payment to assist an RDA in making the Supplemental Education Revenue Augmentation Fund (SERAF) payment, are still valid with the 2011 RDA legislation.

Other:



14. Clarified that amendments in this bill to sections that are not currently operative – for example due to a court stay – would also not be operative until the existing sections are operative.

15. States that this bill is a budget trailer bill within the meaning of Article IV of the constitution, and this it addresses the fiscal emergency declared by the Governor on January 20, 2011.

**Fiscal Effect:** This bill should not result in any reduction to the \$1.7 billion scored in the budget from community remittances to education in 2011-12. To the extent communities and RDAs opt-out of the voluntary alternative redevelopment program and retain a low- and moderate- income housing fund balance, these residual funds would be retained for low-mod programs instead of being allocated to local taxing entities. This bill appropriates \$1,000 General Fund to the Department of Finance to implement the provisions of this bill.

**Support:** Unknown.

**Opposed:** Unknown.

**Comments:** This bill maintains the main elements of the redevelopment package adopted in June, including the \$1.7 billion budget solution, but includes follow-up amendments that grant flexibility and clarification to aid RDAs, cities and counties, and low- and moderate- income housing programs.

**SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW**  
*Mark Leno, Chair*

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<b>Bill No:</b>	<b>ABX1 31</b>
<b>Author:</b>	<b>Calderon</b>
<b>As Amended:</b>	<b>September 2, 2011</b>
<b>Consultant:</b>	<b>Brian Annis</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>September 6, 2011</b>

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**Subject:** Redevelopment – Related to Sale of State Surplus Property

**Summary:** This bill revises the redevelopment agency (RDA) legislation adopted in AB 26X and AB 27X as part of the 2011-12 budget. Specifically, this bill would classify as “obligated for purchase”, and treat as existing RDA debt, a redevelopment project that includes the sale of state surplus property, where the State of California Public Works Board has approved the sale and the Purchase Sales Agreement has been executed on or prior to June 30, 2011. Staff is aware of only one project that would qualify under this provision, and that project involves the State sale of the Fred C. Nelles Youth Correctional Facility to a private entity, which will benefit from financial assistance from the Whittier Redevelopment Agency.

**Background:**

Redevelopment. As adopted by the Legislature in June 2011, AB 26X eliminates the current redevelopment program, and AB 27X provides for a voluntary alternative redevelopment program if communities meet specified conditions to opt-in. Among the requirements for the voluntary program, are that the community (a city or county) agrees to remit a proportional share of approximately \$1.7 billion in 2011-12, and about \$400 million ongoing, to supplement funding for education, fire protection, and transit. The \$1.7 billion in 2011-12 is a budget solution for the State General Fund, and the out-year funding is a net new benefit to education, transit districts and fire districts. An RDA may enter an agreement with the city or county to transfer a portion of its tax increment to the city or county up to the amount of the remittance for that year.

In 2012-13 and ongoing, communities that opt-in to the alternative RDA program have an ongoing annual remittance payment that is calculated based on a share of the base remittance, plus a payment of 80-percent of the “schools share” of tax increment on any new debt, as adjusted for any passthroughs (existing agreements to provide funds to schools and other local entities) and adjusted for the low and moderate housing set-aside. The “school share” represents 80 percent of the amount schools would receive from the property tax increment if it were not used instead to pay debt for the RDA. Language included in AB 27X cites the intent of the Legislature to enact legislation in the 2011-12 session to prescribe a schedule of reductions in the community remittance such that the payment may be less than 80-percent of the schools’ share if the debt is associated with projects that advance the achievement of specified state goals, such as transportation, housing, economic development, job creation, environmental protection and remediation, and climate change.

Background on the Fred C. Nelles Youth Correctional Facility: The Nelles facility in Whittier, California – formerly used by the Department of Corrections and Rehabilitation (CDCR) as a youth facility – has been declared surplus property. On June 10, 2011, the State Public Works Board approved the sale of the 75 acre property to Brookfield Homes for an estimated \$42.5 million. It is anticipated escrow will close in 24 to 36 months. In order for escrow to close, the state must defease approximately \$2.8 million in outstanding bonds, the city must grant

certain entitlements including approval of environmental reviews and approval of the redevelopment plan. According to the planned schedule, ownership will transfer and the payment will be made to the state in 2013 or 2014. Under Article III, Section 9, of the California Constitution, the net proceeds from the sale would be used toward the retirement of Economic Recovery Bonds.

**Proposed Law:** The effect of this measure would be to grandfather a qualifying project such that it is treated as if debt on the project had been issued, even though that is not the case. Under current law, as enacted by AB 27X, a community that opts-in to the voluntary new program makes an annual payment to schools that factors in both existing debt and new debt. For the known applicable project of the Nelles facility in Whittier, this project would receive its full funding prior to AB 27X, and not have to remit 80-percent of the school share. This results in addition funds for the RDA and project, but reduces the remittance otherwise provided to the schools.

Language in this bill declares the measure is a budget trailer bill within the meaning of Article IV of the constitution, and that it addresses the fiscal emergency declared by the Governor on January 20, 2011.

**Fiscal Effect:** This bill would result in property tax increment revenue for the Nelles project (and any other qualifying project, should any be identified), to be retained by the RDA, and stop the shift of the 80-percent school share to education. Based on a 2005 document on the Department of General Services website, the net tax increment (after passthroughs and the low and moderate income set-aside) over a 45-year period for the Nelles project site would be about \$216 million. Based on statewide averages, the school share might be around \$80 million of this amount. So this bill would result, over a 45-year period, in the RDA retaining this \$80 million, instead of this funding going to schools. This estimate is illustrative for level of magnitude, but property values will have changed since the 2005 outlook.

Other fiscal considerations involve the State sale of the property – since the sale agreement is contingent on the RDA financing, the planned sale may not occur if the RDA revenue is reduced. This bill makes the planned sale more likely, but the state could presumably find another buyer for the property, at what might be a reduced sales price due to the reduced RDA subsidy.

This bill appropriates \$1,000 General Fund to the Department of Finance to implement the provisions of this bill.

**Support:** Unknown.

**Opposed:** Unknown.

**Comments:** Staff notes that AB 27X cites the intent of the Legislature to enact legislation in the 2011-12 session to prescribe a schedule of reductions in the community remittance such that the payment may be less than 80-percent of the schools' share if the debt is associated with projects that advance the achievement of specified state goals, such as transportation, housing, economic development, etc. This bill is essentially reducing the 80-percent school-share payment to zero for the Nelles project. The Legislature will have to determine whether this exception for the Nelles project is warranted at this time, or whether action should wait for a more comprehensive review of what types of projects warrant a reduced community remittance, and what that reduction should be for each category. Since the Nelles sale assumed the availability of full RDA funds, it is possible that under current law the purchaser may back out on the purchase of the state surplus property or want to re-negotiate for a reduced price.

**SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW**  
*Mark Leno, Chair*

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<b>Bill No:</b>	<b>ABX1 32</b>
<b>Author:</b>	<b>Blumenfield</b>
<b>As Amended:</b>	<b>September 2, 2011</b>
<b>Consultant:</b>	<b>Kim Connor and Kris Kuzmich</b>
<b>Fiscal:</b>	<b>Yes</b>
<b>Hearing Date:</b>	<b>September 6, 2011</b>

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**Subject:** Statutory changes necessary to implement education-related provisions of the 2011-12 budget.

**Summary:** This bill makes additional statutory revisions affecting K-12 and higher education consistent with the 2011-12 budget.

**Proposed Law:** This bill makes the following statutory revisions affecting K-12 education and higher education as part of the 2011-12 budget, as follows:

**K-12 Education**

1. **Proposition 98 Reappropriations Update.** Amends Item 6110-488 of the Budget Act of 2011 to add \$23.8 million in one-time Proposition 98 savings to replace \$23.8 million in other one-time savings that are not available for reappropriation in 2011-12. This budget item reappropriates one-time Proposition 98 funds for several education programs in order to achieve budget savings reflected in the 2011-12 budget.
2. **Continuation of Funding for Necessary Small Schools.** Adds Education Code provisions to clarify that school districts can continue to receive Necessary Small Schools (NSS) funding grants for middle and junior high schools, as well as, elementary schools and high schools in 2011-12. More specifically, these changes authorize school districts that counted grade 7 and 8 student average daily attendance (ADA) and instructors for purposes of receiving NSS grants in 2010-11 to count grade 7 and 8 student ADA and instructors in 2011-12. The California Department of Education (CDE) interprets current law for the NSS funding program to exclude eligibility for middle and junior high schools. Due to recently identified middle and junior high school claims, CDE notified several school districts that they would lose anticipated NSS funding in 2011-12 without these clarifying changes.
3. **Technical Correction to Proposition 98 Sales Tax Hold Harmless Language.** Makes a technical change to correct a Revenue and Taxation Code reference contained in Section 15 of AB 114 (Chapter 43; Statutes of 2011) – the education budget trailer bill enacted in June 2011. Section 15 of AB 114 changes the calculation of General Fund revenues for purposes of Proposition 98 to reflect the dedication of specific state sales tax revenues to local realignment pursuant to the 2011-12 budget and holds schools harmless from the loss of these revenues.

**California Community Colleges**

4. **Community Colleges Deferrals Technical Correction.** Amends existing law to correct an error in the March 2011 education budget trailer bill (SB 70/ Chapter 7; Statutes of 2011) that inadvertently chaptered out the 2010-11 Community Colleges deferral paid in

2011-12, leaving no authority to make the payment. The Governor's signing message for Chapter 7 contained intent language to pay the deferral. The State Controller did make the payment pursuant to the signing message intent language; however, clean-up language is needed to technically correct this error.

5. **Community College Fee Increase Trigger.** Makes changes to provisions of the education budget trailer bill that clarify that if the community college fee increase "trigger" of \$10 per unit (to a total of \$46 per unit) is operative pursuant to Section 3.94 of the 2011 Budget Bill, the fee increase would commence in the "summer" term of the 2012 calendar year. Current law states that the fee increase trigger will commence in the "winter" term of the 2011-12 academic year.

Adopts a statement of legislative intent that trigger reductions made by community college districts in 2011-12 pursuant to Section 3.94 reflect the one-time nature of the statewide \$30 million reduction imposed as a result of delaying the \$10 per unit student fee increase from the winter term to the summer term. Further, and until the increased fees are collected, it is the intent of the Legislature that districts should, to the extent possible, make every effort to implement reductions in a manner that will minimize the impact on course offerings and programs needed by students to achieve their basic skills, workforce training, or transfer goals.

**Support:** Unknown.

**Opposed:** Unknown.

**Comments:** This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the 2011-12 budget.

\*\*\*\* END \*\*\*\*