S261804

Case No.

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

RICARDO BENITEZ
and
JESSICA MARTINEZ
Petitioners,

v.

GAVIN NEWSOM,
California Governor, In His Official Capacity,
and
KEELY MARTIN BOSLER,
Director of California Department of Finance, In Her Official Capacity
Respondents.

EMERGENCY PETITION FOR WRIT OF MANDATE OR OTHER EXTRAORDINARY OR IMMEDIATE RELIEF FOR A STAY ON THE DISTRIBUTION OF SECTION 36 PUBLIC FUNDS REGARDING APPROPRIATION ITEM 5180-151-0001; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF HARMEET K. DHILLON

APPROPRIATION OF PUBLIC FUNDS TO AN ORGANIZATION NOT UNDER THE EXCLUSIVE MANAGEMENT AND CONTROL OF THE STATE; SUCH FUNDS ARE NOT A LEGITIMATE STATE PURPOSE AND THE FUNDS ARE SUPPOSED TO BE SPENT ON PURPOSES RELATED TO COVID-19 STATE OF EMERGENCY

IMMEDIATE RELIEF REQUESTED –
NO LATER THAN APRIL 30, 2020

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IN THE SUPREME COURT
OF THE STAE OF CALIFORNIA

CERTIFICATE OF INTERESTED ENTITES OR PERSONS

California Rules of Court, rules 8.208, 8.490(i), 8.494(c), 8.496(c), or 8.498(d)

Supreme Court Case Caption:

RICARDO BENITEZ
and
JESSICA MARTINEZ

Petitioners,

v.

GAVIN NEWSOM,
California Governor, In His Official Capacity
and
KEELY MARTIN BOSLER,
Director of California Department of Finance, In Her Official Capacity

Respondents.

Please check here if applicable:

☒ There are no interested entities or persons to list in this Certificate as defined in the California Rules of Court.

Date: April 22, 2020

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EMERGENCY PETITION FOR WRIT OF MANDATE OR OTHER EXTRAORDINARY OR IMMEDIATE RELIEF

To the Honorable Tani Cantil-Sakauye, Chief Justice of the Supreme Court of California and to the Honorable Associate Justices of the Supreme Court of California:

I. INTRODUCTION

Our State Constitution prohibits the appropriation of public funds for the benefit of organizations not within the exclusive management and control of the State. On April 15, 2020, Gavin Newsom announced that he was appropriating $75,000,000 to be dispersed to a group of unnamed regional non-profits. This appropriation is to come out of the Section 36 funds that the legislature appropriated for any purpose related to the COVID-19 State of Emergency. The purpose of this appropriation to non-profit organizations is to provide for a cash distribution of $500 to unemployed California workers who are ineligible for state unemployment benefits or federal COVID unemployment benefits because they are undocumented immigrants to whom such cash payments are barred by state and federal law.

Unemployed and undocumented California workers are ineligible for state unemployment benefits because the California Unemployment and Insurance Code does not extend benefits to aliens who are not lawfully admitted for permanent residence. (Un. Ins. Code §1264.) Furthermore, federal law only permits a state to give a public benefit to an alien who is not lawfully present in the United States only through the enactment of a state law which affirmatively provides for such eligibility. (8 U.S.C. § 1621.) No such law has been passed in California. While federal law does permit "[s]hort-term, non-cash, in-kind emergency disaster relief", this exception is not applicable to this appropriation, because Governor Newsom intends to give cash distributions in lieu of unemployment

benefits, not in-kind services in the form of food, shelter, vouchers, or other emergency, non-cash relief payment. (8 U.S.C. § 1621.)

We are a nation of laws and California perhaps its own "nation-state" of laws as Governor Newsom might say, but regardless of Governor Newsom's noble intentions, he may not grant unemployment benefits or other cash benefits contrary to the law. A gift to a nonprofit that is not under the control of the state is permissible "only as an incident to the promotion of a public purpose." (*California Housing Finance Agency v. Elliott* (1976) 17 Cal.3d 575, 586.) The California Supreme Court has found that an "appropriation of money by the legislature for the relief of one who has no legal claim therefor must be regarded as a gift." (*Lertora v. Riley* (1936) 6 Cal.2d 171, 179.) Because his intended appropriation is contrary to legislative intent, this appropriation of Section 36 funds cannot be deemed for a valid public purpose and is thus a gift. Because the appropriation is a gift to an organization (or organizations) outside the exclusive management and control of the State, the appropriation is unconstitutional.

This Writ seeks the enforcement of a public duty of Governor Newsom. Since a matter of public right is at stake, Petitioners need not show any legal or special interest, as Petitioners are "interested as [] citizen[s] in having the laws executed and the duty in question enforced." (*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155, 166.)

By this petition for extraordinary relief, Petitioners Ricardo Benitez and Jessica Martinez ask this Court to intervene immediately and uphold the clear and direct requirements of our California Constitution.

PETITIONER RESPECTUFULLY REQUESTS IMMEDIATE RELIEF, NOT LATER THAN APRIL 30, 2020

II. QUESTION PRESENTED

The limited question presented here is whether it is a violation of California Constitution Article XVI, § 3 for Governor Newsom to expend Sec. 36 funds designated for purposes related to the COVID-19 State of Emergency to nonprofit organizations for the stated purpose of providing California workers who are not eligible for unemployment benefits because they are undocumented immigrants with a cash distribution when Cal. Un. Ins. Code §1264(a)(1) excludes unemployment benefits for undocumented immigrants and 8 U.S.C. § 1621 prohibits a state from giving any public benefit to an alien who is not lawfully present in the United States except through the enactment of a State law affirmatively providing for such eligibility.

III. PARTIES

1. Petitioners, Ricardo Benitez and Jessica Martinez ("Petitioners") seek this Court's extraordinary relief to prohibit Respondents GAVIN NEWSOM and KEELEY MARTIN BOSLER from distributing any public funds whether by grant or contract as a part of appropriation item 5180-151-0001 to any community-based non-profit organization.

2. Petitioner **RICARDO BENITEZ** is an individual California resident. Benitez was born in El Salvador and immigrated to the United States in 1975 as a minor. He was an undocumented immigrant and became a United States citizen in 1986. He has never taken a penny from the government in the form of public assistance. Benitez is currently a candidate for the California Assembly District 39. He considers himself a law and order candidate. Over the last several days, many voters in District

39 have approached him about their concern for these public funds being distributed to undocumented immigrants. He is concerned with the health and welfare of all residents of California during these troubling times. However, he believes that the Governor must follow the Constitution and state and federal law, even in a state of emergency.

3. Petitioner **JESSICA MARTINEZ** is an individual California resident. Martinez is a member of the Whitter City Counsel. She is an American citizen of Mexican/American descent. Martinez is a candidate for the California Assembly District 57. She considers herself a law and order candidate. Over the last several days, many voters in District 57 have approached her about their concerns for these public funds being distributed to undocumented immigrants. While she has concerns about the health and welfare of all Californians, including immigrants, she has great concerns about the governor expending COVID-19 emergency funds to give unemployment benefits to those who the law says are not entitled to unemployment benefits. Martinez also is concerned about the fact that the nonprofit entities that receive these public funds will be keeping 40% of the total funds raised for this project as an administrative fee. Martinez' believes that even in a state of emergency, the governor must follow the California Constitution as it is fundamental for the protection of the people from an overreaching government. Moreover, in a nation of laws, California must respect federal immigration law which prohibits such cash handouts by agents of the state.

4. Respondent **GAVIN NEWSOM** ("Governor Newsom"), is the Governor of California. He is named in his official capacity only. The California Constitution vests the "supreme executive power of the State" in the Governor, who "shall see that the law is faithfully executed." (Cal. Const. Art. V, § 1.)

5. Respondent **KEELY MARTIN BOSLER**, is the Director of the California Department of Finance. She is named in her official capacity only. Senate Bill 89 allows the governor to appropriate $1,000,000,000 "from the General Fund to any item for any purpose related to the March 4, 2020 proclamation of a state of emergency upon order of the Director of Finance." On April 15, 2020, Director Bosler did send notice to the Joint Legislative Budget Committee for $63,300,000 "to award grants or contracts to community-based nonprofit organizations to provide a one-time disaster cash benefit to assist undocumented immigrants."

IV. JURISDICTION

6. This Court has original jurisdiction over this matter pursuant to Article VI, § 10 of the California Constitution, Code of Civil Procedure §§ 1085 and 1086 and Rule 8.486 of the California Rules of Court, to decide a dispute where, as here, the case presents issues of great public importance that must be resolved promptly. This is such a case because it involves the appropriation of public funds designated for purposes of the current COVID-19 State of Emergency that are being appropriated for the benefit of a nonprofit organization with no public purpose, since the stated use of the funds are expenditures that are not permitted under either California state or federal law. As the Court held in *Clean Air Constituency v. California State Air Res. Bd.* (1974) 11 Cal.3d 801, 808:

> The Supreme Court has original jurisdiction in mandamus pursuant to article VI, section 10, of the California Constitution, and will exercise that jurisdiction in appropriate cases when 'the issues presented are of great public importance and must be resolved promptly.' [Citations.] If these criteria are satisfied, the existence of an alternative appellate

remedy will not preclude this court's original jurisdiction."

V. FACTS AND LAW

7. California Constitution, Article XVI, § 3 states:

> No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, except that notwithstanding anything contained in this or any other section of the Constitution.

8. On March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency so as to assist the state in "preparing for and responding to COVID-19". A true and correct copy of the Governor's Proclamation is attached here as Exhibit 1.

9. Under the "California Emergency Services Act," Gov. Code §8550 *et seq.*, the "Governor may make, amend, and rescind orders and regulations necessary to carry out the provisions of this chapter. The orders and regulations shall have the force and effect of law." (Gov. Code § 8567.) During "a state of emergency the Governor may suspend any regulatory statute, or statute prescribing the procedure for conduct of state business, or the orders, rules, or regulations of any state agency…where the Governor determines and declares that strict compliance with any statute, order, rule, or regulation would in any way prevent, hinder, or delay the mitigation of the effects of the emergency." (Gov. Code § 8571.) Notably, this Act does not permit the Governor to suspend the California Constitution.

10. On March 17, 2020, Governor Newsom signed Senate Bill 89 into law. This bill stated that "$500,000,000 is hereby appropriated from the General Fund to any item for any purpose related to the March 4, 2020 proclamation of a state of emergency upon order of the Director of Finance. … The amount of the appropriation in this section may be increased in increments of $50,000,000 no sooner than 72 hours after the Director of Finance notifies the Joint Legislative Budget Committee for the need for the increase. … The total appropriation under this section shall not exceed $1,000,000,000." This bill adds Section 36 to the Budget Act of 2019 and thus are commonly referred to as Section 36 funds. A true and correct copy of SB 89 is attached here as Exhibit 2.

11. On April 15, 2020, Governor Newsom announced a statewide public-private partnership which is to provide financial support to undocumented immigrants who are ineligible for unemployment insurance benefits due to their immigration status. A true and correct copy of the April 15 Press Release is attached here as Exhibit 3.

12. The relevant portion of the Press Release states:

> … an unprecedented $125 million in disaster relief assistant for working Californians. This first in the nation, statewide public-private partnership will provide financial support to undocumented immigrants impacted by COVID-19. California will provide $75 million in disaster relief assistance and philanthropic partners have committed to raising an additional $50 million.
>
> California is the most diverse state in the nation. Our diversity makes us stronger and more resilient. Every Californian, including our undocumented neighbors and friends, should know that California is here to support

them during this crisis. We are all in this together,' said Governor Newsom.

California's $75 million Disaster Relief Fund will support undocumented Californians impacted by COVID-19 who are ineligible for unemployment insurance benefits and disaster relief, including the CARES Act, due to their immigration status. Approximately 150,000 undocumented adult Californians will receive a one-time cash benefit of $500 per adult with a cap of $1,000 per household to deal with the specific needs arising from the COVID-19 pandemic. Individuals can apply for support beginning next month.

The state's Disaster Relief Fund will be dispersed through a community-based model of regional nonprofits with expertise and experience serving undocumented communities.

….

California has developed an immigrant resource guide to provide information about COVID-19 related assistance, including public benefits, that are available to immigrant Californians.

13. On April 15, 2020, the Director of the Department of Finance through the Chief Deputy Directory sent a letter to the Joint Legislative Budget Committee. A true and correct copy of the April 15th Letter is attached here as Exhibit 4.

14. The April 15th letter requested an appropriation of public funds for undocumented immigrants pursuant to Section 36. The request for appropriation stated:

> $63,300,000 to Item 5180-151-0001 to award grants or contracts to community-based nonprofit organizations to provide a one-time disaster cash benefit to assist undocumented immigrants negatively impacted by COVID-19 to deal with the specific needs arising from the COVID-19 pandemic. Services will include but not be limited to outreach, benefit eligibility determination, and benefit distribution.

15. California law does not permit unemployment cash benefits to undocumented immigrants.

> Unemployment compensation benefits, extended duration benefits, and federal-state extended benefits shall not be payable on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence at the time the services were performed, was lawfully present for purposes of performing the services, or was permanently residing in the United States under color of law at the time the services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act.

(Cal. Un. Ins. Code § 1264(a)(1).)

16. Federal law does not permit unemployment compensation to undocumented immigrants:

> … compensation shall not be payable on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent

> residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law …

(26 U.S.C. § 3304 (a)(14)(A).)

17. While Federal law does permit states to provide a public benefit of emergency disaster relief to aliens who are not lawfully present in the country, this assistance must be "non-cash." (8 U.S.C. § 1621(b)(2).)

18. Unless specifically excluded under 8 U.S.C. § 1621(b)(2), states may provide a public benefit to aliens not lawfully present in the United States "only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility." (8 U.S.C. § 1621(d).) California has passed no such law.

VI. TIMELINESS OF PETITION AND REQUESTED RELIEF

19. This Petition is filed within a few days of the Director of Finance April 15, 2020 letter notifying the Joint Legislative Budget Committee of the appropriation of $63,300,000 to award grants or contracts to community-based nonprofit organizations. However, the urgency of resolving this issue expeditiously is demonstrated by the fact that according to Governor Newsom's press release, undocumented immigrants will be allowed to start applying for this "one-time cash benefit" "beginning next month."

20. This Court may grant the interim relief requested pending review of the writ, whether it requests oral argument or not. This case is best suited for resolution by this Court rather than a superior court or the Court of Appeal because this matter presents issues of broad public importance and Constitutional interpretation that require speedy and final resolution. If Petitioners were first to file a writ in the Superior Court or the Court of Appeals, the non-prevailing parties could then seek review in this Court,

with additional opportunities for delay at each stage. Such a prolonged process would tie up the funds that are designated by the legislature to be spent on items for any purpose related to the COVID-19 state of emergency. This litigation will free up these public funds for legitimate public purposes.

VII. IRREPARABLE INJURY/NECESSITY FOR RELIEF

21. Petitioners have no plain, speedy and adequate remedy at law, other than the relief sought in this request.

22. Petitioners' irreparable injury is founded on the fundamental principle that public funds are to be spent on legitimate public purposes. Gavin Newsom has stated that 150,000 unemployed, undocumented immigrants will be allowed to apply for these funds starting in May. Once the nonprofit organizations serving as the agents of California have distributed the cash benefits to the undocumented immigrants, it will be impossible for the state to claw back these public funds should a court later determine that these public funds were not appropriated pursuant to a legitimate public purpose. It will be impossible because California is not actually distributing the funds through an organization or organizations that has exclusive management and control over, as mandated by the California Constitution.

23. COVID-19 is having a disastrous impact on millions of Californians. Should this Court find that these funds are being distributed without a legitimate public purpose, and in violation of the California Constitution, this Court's order staying such appropriation will make these public funds to be used for a legitimate public purpose.

VIII. PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court:

(a) Issue an order to show cause why Petitioners' Petition for Writ of Mandate, which prohibits the Director of the California Department of Finance from distributing the $63,300,000 of public funds earmarked so far to community-based nonprofit organizations and/or claw back already distributed public funds that were appropriated by her April 15th letter, issue the interim stay relief requested herein prohibiting the Respondent Governor Newsom and Director Bosler from distributing these public funds contrary to the Article XVI, § 3 of the California Constitution pending the Court's determination on the merits, and hold a hearing and decide the matter not later than April 30, 2020; or,

(b) Grant the Petitioners' Petition for Peremptory Writ of Mandate without a hearing, prohibiting the Respondent Governor Newsom and Director Bosler from distributing public funds or claw back already distributed public funds that were appropriated by the April 15 letter as fundamentally inconsistent and in conflicts with Article XVI, § 3 of the California Constitution.

Respectfully submitted,

Dated: April 22, 2020

Dhillon Law Group

By: 

Harmeet K. Dhillon
Mark P. Meuser
Gregory R. Michael
Attorneys for Petitioners Ricardo Benitez and Jessica Martinez

MEMORANDUM OF POINTS AND AUTHORITES IN SUPPORT OF EMERGENCY PETITION FOR WRIT OF MANDATE OR OTHER EXTRAORDINARY OR IMMEDIATE RELIEF

Petitioner hereby respectfully brings this Emergency Petition for Writ of Mandate or Other Extraordinary or Immediate Relief under Article VI, § 10 of the California Constitution, Code of Civil Procedure §§ 1085 and 1086, Rule 8.486 of the California Rules of Court, and *Clean Air Constituency v. California State Air Res. Bd.* (1974) 11 Cal.3d 801, 808.

I. INTRODUCTION

The immediate petition is brought pursuant to Article VI, § 10 of the California Constitution, Code of Civil Procedures §§ 1085 and 1086, and Rule 8.486 of the California Rules of Court, contending that Governor Newsom's April 15, 2020 appropriation of $63,300,000 to provide unemployment assistance in the form of a cash benefit to undocumented immigrants which may be spent 72 hours after the Director of Finance's April 15th letter, unconstitutionally abridges the People's right to not have public funds given for the purpose of benefiting organizations not under the exclusive management and control of the State as established by Article XVI, § 3 of the California Constitution. This appropriation plainly violates both state and federal law, and thus these appropriations may not be construed as a legitimate public purpose.

This petition seeks immediate relief prohibiting Respondent Governor GAVIN NEWSOM and Director KEELY MARTIN BOSLER from distributing the appropriated funds as specified in the April 15th letter or should the funds have already been distributed to the nonprofit organizations acting as the state's agents, require the immediate clawing back of the public funds that were distributed without a legitimate public purpose. This is an urgent matter since this appropriation is based on the

Governor's Section 36 appropriation powers given to him by the legislature as a result of the COVID-19 state of emergency.

II. ARGUMENT

A. California Constitution Prohibits the Gift of Funds to any Non-Government Organization when those Funds are not for a Legitimate State Purpose Determined by the Legislature

This matter involves a very simple question of Constitutional interpretation – whether the governor may appropriate to undocumented immigrants via nonprofit entity agents, a cash unemployment benefit when both Federal and state law prohibit undocumented immigrants from receiving an unemployment benefit, or any cash benefit.

California Constitution Article XVI, §3 states:

> No money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State, …"

Very early on, the California Supreme Court has established that the California Constitution does not prohibit appropriations for public purposes. (See, e.g., *Daggett v. Colgan* (1891) 92 Cal. 53 [where the Court had to determine whether giving $300,000 to the California World's Fair commission to erect buildings at the 1893 World's Fair in Chicago].) The *Daggett* Court found that "what is for the public good and what are public purposes are questions which the legislature must decide upon its own judgment …". California Courts have interpreted that California Constitution, Article XVI, § 3 was "not intended to unduly restrict the state

in the expenditure of public funds for legitimate state purposes." (*People v. Honig* (1996) 48 Cal.App.4th 289, 352.)

Article XVI, §3 is inapplicable to cases "in which private parties are benefited by state appropriations only as an incident to the promotion of a public purpose." (*California Housing Finance Agency v. Elliott* (1976) 17 Cal.3d 575, 586.) "As long as a private institution performs a public purpose, any benefit that it receives is merely incidental to the public benefit, and spending will be constitutional." (*California Assn. of Retail Tobacconists v. California* (2003) 109 Cal.App.4th 792, 816 [quoting Grodin *et. al.*, The Cal. State Constitution: A Reference Guide (1993) pp. 280-281].)

The courts have held that Article XVI, § 3 only prevents "the appropriation of funds from the state fisc for a purpose foreign to the interests of the state and outside of its control." (*California Assn. of Retail Tobacconists v. California* (2003) 109 Cal.App.4th 792, 816.)

There have been numerous times when California Courts have found that expenditure of State Funds did not meet a public benefit. In *People v. Honig* (1996) 48 Cal.App.4th 289, the State Superintended of Public Institution, Louis Honig III was convicted of awarding contracts of public funds contrary to state conflict-of-interest statutes. The court determined that the "determination whether an expenditure serves a public purpose is for the Legislature to make through duly enacted legislation. But in the absence of such a legislative determination, public officials have no authority to spend public funds." (*Honig* at p. 352 [internal citations omitted].) The court concluded that defendant violated Article XVI, § 3 of the Constitution. (*Honig* at p. 363.)

Another case where the Court found an expenditure "not for a public purpose as determined by the Legislature" involved the payment of an indemnity for cattle slaughtered pursuant to the Bovine Tuberculosis Law.

The Bovine Tuberculosis Law provided "for the immediate segregation of reacting animals and not for the destruction of nonreactors". The Bovine Tuberculosis Law expressly limited recovery for slain animals that were infected. Appointed officers killed cattle that did not react to the tuberculin test and the question was whether the Bovine Tuberculosis Law required the state to pay for the healthy cows that were killed by state agents. The California Supreme Court found that the "statute does not define the destruction of healthy animals as necessary for the preservation of the public health, and the destruction of such animals was not within the jurisdiction of the department of agriculture or its officers, and would not be for public purpose as determined by the Legislature; consequently the payment of an indemnity for such purpose would fall within the inhibitions … of the Constitution of California." (*Lertora v. Riley* (1936) 6 Cal.2d 171, 179.) The Court continued by ruling that because there was no appropriation of money for compensating for healthy cows that were destroyed, compensating the ranchers for healthy cattle that was destroyed would be an appropriation of public money to someone "not under the exclusive management and control of the State."

This case is similar to both *Honig* and *Lertora* in that the Respondents are attempting to appropriate government funds in a manner that violates both state and federal law. The California state legislature has passed legislation that prohibits undocumented immigrants from receiving unemployment benefits. (See Un. Ins. Code §1264(a)(1).) Since the legislature has made a determination that unemployment benefits are not due to undocumented immigrants, Respondents have no authority under Section 36 to make an appropriation that is contrary to California law.

B. Federal Law Prohibits the State from Giving a Public Benefit to Undocumented Immigrants without the Legislature's Prior Authorization

Furthermore, federal law also prohibits aliens who are not lawfully in this country from receiving unemployment benefits. (26 U.S.C. § 3304(a)(14)(A).) A state can provide a public benefit to aliens who are not lawfully in this country in accordance with federal law "only through the enactment of a State law after August 22, 1996, which affirmatively provides for such eligibility." (8 U.S.C. § 1621(d).) As already discussed, Un. Ins. Code §1264(a)(1) prohibits unemployment benefits be given to aliens not lawfully in this country and as such, there can be no law that Respondents may point to that shows that the California legislature enacted a law affirmatively providing for undocumented immigrants to receive unemployment benefits.

While 8 U.S.C. § 1621(b)(2) does provide states with the authority to provide disaster relief to aliens who are not legally in this country without the legislature affirmatively providing for the public benefit, these emergency disaster relief public benefits **must be "non-cash."** Governor Newsom has issued no Executive Order as to how the grants and/or contracts are going to be awarded and how the funds are going to be distributed from the community-based nonprofits, but he has publicly announced that approximately "150,000 undocumented adult Californians will receive a one-time cash benefit of $500 per adult." (See Exhibit 3). He has also announced that large corporations working with the Governor will raise and contribute an additional $50 million to this project and presumably to these nonprofits. Mathematically this adds up to $75 million in public funds being given as cash grants to undocumented immigrants through the nonprofit entities who will also receive $50 million from corporate allies of the Governor, which they get to retain for their trouble.

C. Moral Considerations do not Override Legislature's Authority to Determine the Appropriation of Public Money

Governor Newsom may have good intentions when he states that many "Californians are one paycheck away from losing their homes or from being able to put food on their tables." Governor Newsom might have been trying to show that he cared for the plight of the unemployed, "nonessential" (as declared by the Governor) undocumented immigrants when he said that "our undocumented neighbors and friends, should know that California is here to support them during this crisis." However, as the Court said in *Lertora*:

> All those moral considerations or demands, resting merely upon some equitable consideration or idea of justice, which in an individual, acting in his own right, would be upheld, are insufficient as a basis for making an appropriation of public moneys. An appropriation of money by the legislature for the relief of one who has no legal claim therefor must be regarded as a gift, within the meaning of that term, as used in this section; and it is none for the less a gift that a sufficient motive appears for its appropriation, if the motive does not rest upon a valid consideration.

(*Lertora* at p. 179.)

Governor Newsom is free to urge his corporate supporters – who appear to be providing $50 million to the designated nonprofits simply to cover their overhead – to instead provide the full $75 million he contemplates will be distributed to 150,000 undocumented individuals – or even more money, or less. But the label of "public-private partnership" does not, like alchemy, simply

convert an illegal public expenditure into a legal one, no matter how noble the cause.

Since there is no duly enacted legislation justifying this expenditure directly contrary to established law, Respondents will not be able to show that there is a legitimate public purpose for the appropriation of $63,300,000 "to award grants or contracts to community-based nonprofit organizations to provide a one-time disaster cash benefit to assist undocumented immigrants negatively impacted by COVID-19". Since there is no public purpose, this must be a gift. This is a gift of public funds benefiting an organization "not under the exclusive management and control of the State" and thus this appropriation violates Article XVI, §3 of the California Constitution.

D. California Emergency Services Act do not give the Governor Power to Supersede Citizen's Constitutional Rights

Respondents probably will contend that the Governor has broad powers under the "California Emergency Services Act" (See Gov. Code § 8550 *et seq.*) These powers include the authority to "make, amend, and rescind orders and regulations necessary to carry out the provisions of this chapter." (See Gov. Code § 8567.) The Governor may also "suspend any regulatory statute, or statute prescribing the procedure for conduct of state business, or the orders, rules, or regulations of any state agency". (See Gov. Code § 8571.)

However, the Governor has not issued any executive orders regarding the suspending of any laws to justify his giving, through nonprofits, undocumented immigrants a cash unemployment (or any) benefit. One of the reasons why the Governor did issue such an executive order is because nothing in the "California Emergency Services Act" gives him the authority to suspend federal law.

Furthermore, nothing in the "California Emergency Services Act" gives the Governor the ability to suspend the Constitutional rights of the Petitioners to be free from California's appropriation of public funds for the benefit of an organization without there being a legitimate public purpose. Since the Governor may not suspend federal law or the California Constitution, these appropriations of public funds are unconstitutional, and this Court must enter an order rescinding the appropriation of these public funds.

E. Writ Relief is Appropriate Now

This Petition is filed within a few days of the Director of Finance April 15, 2020 letter notifying the Joint Legislative Budget Committee of the appropriation of $63,300,000 to award grants or contracts to community-based nonprofit organizations. However, the urgency of resolving this issue expeditiously is demonstrated by the fact that according to Governor Newsom's press release, undocumented immigrants will be allowed to start applying for this "one-time cash benefit" "beginning next month" – i.e., in May, seven days from the filing of this Writ.

F. Irreparable Injury Will Harm All Californians if Relief is Not Granted Promptly

Writ relief must be granted well in advance of the community-based nonprofit organizations providing a one-time disaster cash benefit as these organizations need to conduct outreach, and conduct benefit eligibility determinations according to whatever criteria they or the government mandate. Petitioners' irreparable injury is founded on the fundamental principle that public funds are to be spent on legitimate public purposes. Gavin Newsom has stated that 150,000 out of work undocumented immigrants will be allowed to apply for these funds starting in May. Once the nonprofit organizations have distributed the cash benefit to the undocumented immigrants, it will be impossible for the state to claw back

these public funds should a court later determine that these public funds were not appropriated pursuant to a legitimate public purpose. It will be next to impossible because the state is not actually distributing the funds through an organization that they have exclusive management and control over.

G. Petitioners Have Standing to Sue and the Respondents are the Proper Respondents

Petitioners Ricardo Benitez and Jessica Martinez are proper parties to bring this action because they are California residents.

> [W]here the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty, the petitioner need not show that he has any legal or special interest in the result, since it is sufficient that he is interested as a citizen in having the laws executed and the duty in question enforced. This public right/public duty exception to the requirement of beneficial interest for a writ of mandate promotes the policy of guaranteeing citizens the opportunity to ensure that no governmental body impairs or defeats the purpose of legislation establishing a pubic right.

(*Save the Plastic Bag Coalition v. City of Manhattan Beach* (2011) 52 Cal.4th 155 [internal citations omitted].)

Respondent Governor Newsom is the proper respondent. The California Constitution vests the "supreme executive power of the State" in the Governor, who "shall see that the law is faithfully executed." (Cal. Const. Art. V, § 1.)

Respondent Director Bosler is the proper respondent, as she is the Director of the California Department of Finance. She is the government official required under Section 36 to appropriate funds by providing notice

of the appropriation to the chairperson of the Joint Legislative Budget Committee.

III. CONCLUSION

For the reasons stated above, the relief sought herein should be granted, together with such other and further relief this Court deems just and proper.

Respectfully submitted,

Dated: April 22, 2020

Dhillon Law Group

By: 

Harmeet K. Dhillon
Mark P. Meuser
Gregory R. Michael
Attorneys for Petitioners Ricardo Benitez and Jessica Martinez

DECLARATION OF HARMEET K. DHILLON

I, Harmeet K. Dhillon, declare:

1. I am an attorney licensed to practice law in the State of California, and a partner with the firm Dhillon Law Group, and one of the counsel of record for Petitioners in this matter.

2. I have personal knowledge of the facts stated herein and, if I was called to testify, would and could competently and accurately testify as to the same. I make this declaration in support of *Petitioner's Emergency Petition for Writ of Mandate or Other Extraordinary or Immediate Relief.*

3. Filed herewith and marked as **Exhibit 1**, is a true and correct copy of Governor Gavin Newsom's March 4, 2020 proclamation of a State of Emergency.

4. Filed herewith and marked as **Exhibit 2**, is a true and correct copy of Senate Bill 89 signed by Governor Gavin Newsom on March 17, 2020.

5. Filed herewith and marked as **Exhibit 3**, is a true and correct copy of Governor Gavin Newsom's April 15, 2020 press release as maintained on the Office of Governor Gavin Newsom's webpage.

6. Filed herewith and marked as **Exhibit 4**, is a true and correct copy of the Director of the Department of Finance's letter to the Joint Legislative Budget Committee dated April 15, 2020.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct.

Executed this 22th day of April, 2020, at The Sea Ranch, California.

Harmeet K. Dhillon

EXHIBIT 1

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.

2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.

3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.

4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.

5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.

8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.

9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.

10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.

12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.

14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.

GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

EXHIBIT 2

Senate Bill No. 89

CHAPTER 2

An act to amend the Budget Act of 2019 (Chapters 23 and 55 of the Statutes of 2019) by amending Section 39.00 of, adding Item 3970-002-001 to Section 2.00 of, and adding Sections 36.00 and 37.00 to, that act, relating to the state budget, and making an appropriation therefor, to take effect immediately, budget bill.

[Approved by Governor March 17, 2020. Filed with Secretary of State March 17, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 89, Committee on Budget and Fiscal Review. Budget Act of 2019.

This bill would amend the Budget Act of 2019 by appropriating $500,000,000 from the General Fund to be used for any purpose related to the Governor's March 4, 2020 proclamation of a state of emergency. This bill would authorize additional appropriations in increments of $50,000,000, up to a total appropriation of $1,000,000,000. The bill would amend the act to state the Legislature's intent that the administration work with stakeholders, including members of the Legislature and legislative staff, to develop strategies to be considered for inclusion in the Budget Act of 2020 to provide assistance related to the impacts of COVID-19. The bill would amend the act by adding an item of appropriation to the Department of Resources Recycling and Recovery.

This bill would declare that it is to take effect immediately as a Budget Bill.

Appropriation: yes.

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

SECTION 1. Item 3970-002-0001 is added to Section 2.00 of the Budget Act of 2019, to read:

3970-002-0001—For support of Department of Resources Recycling and Recovery	84,100,000
Schedule:	
(1) 3700-Waste Reduction and Management.....	84,100,000
Provisions:	
1. The amount appropriated in this item shall be available for encumbrance or expenditure until June 30, 2021, and for liquidation until June 30, 2023.	

SEC. 2. Section 36.00 is added to the Budget Act of 2019, to read:

SEC. 36.00. Notwithstanding any other law, $500,000,000 is hereby appropriated from the General Fund to any item for any purpose related to the March 4, 2020 proclamation of a state of emergency upon order of the Director of Finance. Funds appropriated in this section may not be expended prior to 72 hours after the Director of Finance notifies the Joint Legislative Budget Committee in writing of the purposes of the planned expenditure. The chairperson of the Joint Legislative Budget Committee or the chairperson's designee may shorten the 72-hour period by written notification. The amount of the appropriation in this section may be increased in increments of $50,000,000 no sooner than 72 hours after the Director of Finance notifies the Joint Legislative Budget Committee of the need for the increase. The chairperson of the Joint Legislative Budget Committee or the chairperson's designee may shorten the 72-hour period by written notification. The total appropriation under this section shall not exceed $1,000,000,000.

SEC. 3. Section 37.00 is added to the Budget Act of 2019, to read:

SEC. 37.00. It is the intent of the Legislature that the administration work with stakeholders, including members of the Legislature and legislative staff, in developing strategies to be considered for inclusion in the Budget Act of 2020 to assist individuals, nonprofit organizations, and small businesses experiencing economic hardships due to the impacts of COVID-19.

SEC. 4. Section 39.00 of the Budget Act of 2019 is amended to read:

SEC. 39.00. The Legislature hereby finds and declares that the following bills are other bills providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution: AB 75, AB 76, AB 77, AB 78, AB 80, AB 81, AB 82, AB 83, AB 84, AB 85, AB 87, AB 90, AB 92, AB 94, AB 95, AB 100, AB 101, AB 102, AB 103, AB 104, AB 111, AB 112, AB 113, AB 114, AB 115, AB 116, AB 117, AB 118, AB 119, AB 121, SB 75, SB 76, SB 77, SB 78, SB 80, SB 81, SB 82, SB 83, SB 84, SB 85, SB 87, SB 90, SB 91, SB 92, SB 94, SB 95, SB 101, SB 102, SB 103, SB 104, SB 105, SB 111, SB 112, SB 113, SB 114, SB 115, SB 116, SB 117, SB 118, SB 119, and SB 121.

SEC. 5. This act is a Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution and shall take effect immediately.

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EXHIBIT 3

Governor Newsom Announces New Initiatives to Support California Workers Impacted by COVID-19

Published: Apr 15, 2020

Governor announces new initiative to expand call center hours at the Employment Development Department to better assist Californians with unemployment insurance applications

EDD will also implement a one-stop shop for those applying for Pandemic Unemployment Assistance, including the self-employed and independent contractors

Governor announces $75 million in statewide Disaster Relief Assistance funding to provide financial support for immigrant workers affected by COVID-19

Philanthropic partners commit to raising an additional $50 million to support undocumented Californians

SACRAMENTO – Governor Gavin Newsom today announced new initiatives to support the millions of California workers who have lost jobs or wages as a result of the COVID-19 pandemic.

At the Governor's direction, the Employment Development Department (EDD) will launch a new call center on Monday that will operate 7 days a week from 8:00 a.m. to 8:00 p.m. The Unemployment Insurance Branch will be upstaffed with 1,340 employees, including 740 EDD employees and 600 employees from across state government. The Governor also directs EDD to expedite access to the Work Share program to avert layoffs.

The EDD will also stand up a one-stop shop for individuals applying for unemployment insurance and the new federal Pandemic Unemployment Assistance (PUA) program starting April 28. The PUA will provide federally funded benefits distinct from UI program for certain individuals out of work or partially unemployed due to COVID-19. This includes the self-employed, individuals who may be employees but who lack sufficient work history and independent contractors. Federal guidelines include gig workers and California's gig workers will continue to be protected by our strong laws against misclassification in the administration of PUA. PUA benefits will be issued within 24-48 hours – not the traditional 21 days for regular UI claims.

"Many Californians are one paycheck away from losing their homes or from being able to put food on their tables, and COVID-19 has only made these challenges worse," said Governor Newsom. "California is focused on getting relief dollars and unemployment assistance in the hands of those who need it as quickly as possible."

The Governor also announced an unprecedented $125 million in disaster relief assistance for working Californians. This first in the nation, statewide public-private partnership will provide financial support to undocumented immigrants impacted by COVID-19. California will provide $75 million in disaster relief assistance and philanthropic partners have committed to raising an additional $50 million.

"California is the most diverse state in the nation. Our diversity makes us stronger and more resilient. Every Californian, including our undocumented neighbors and friends, should know that California is here to support them during this crisis. We are all in this together," said Governor Newsom.

California's $75 million Disaster Relief Fund will support undocumented Californians impacted by COVID-19 who are ineligible for unemployment insurance benefits and disaster relief, including the CARES Act, due to their immigration status. Approximately 150,000 undocumented adult Californians will receive a one-time cash benefit of $500 per adult with a cap of $1,000 per household to deal with the specific needs arising from the COVID-19 pandemic. Individuals can apply for support beginning next month.

The state's Disaster Relief Fund will be dispersed through a community-based model of regional nonprofits with expertise and experience serving undocumented communities.

In addition to the $75 million in state funding, Grantmakers Concerned with Immigrants and Refugees (GCIR), a network of foundations focused on immigration issues, has committed to raising $50 million to support direct financial assistance to families of undocumented immigrants through the California Immigrant Resilience Fund, with initial lead investments of $5.5 million from Emerson Collective, Blue Shield of California Foundation, The California Endowment, The James Irvine Foundation, Chan Zuckerberg Initiative and an anonymous donor, among others. Those interested in supporting this fund can donate at www.immigrantfundCA.org.

"During this moment of national crisis, undocumented immigrants are risking their own health on behalf of the rest of us, saving lives as health care workers; caring for our loved ones; and growing much of the food we depend on," said Laurene Powell Jobs, Founder and President of Emerson Collective. "With the federal government and so many states failing to provide undocumented immigrants the economic and health

supports all Americans deserve, I hope that corporations, foundations and individuals across the country will join us in providing the emergency relief these members of our community need to weather this challenging time."

California has developed an immigrant resource guide to provide information about COVID-19 related assistance, including public benefits, that are available to immigrant Californians.

Last week, Governor Newsom announced that California is seeking to take appropriate steps to ensure care and treatment for COVID-19 for its residents, regardless of immigration status. Given the current public health emergency, COVID-19 testing, evaluation and treatment services are being deemed as emergency services under Medi-Cal, regardless of the location where it is received. Deeming COVID-19 testing and related treatment services as an emergency will entitle all Medi-Cal beneficiaries, regardless of their scope of coverage under Medi-Cal or their documentation status, to receive all medically necessary inpatient or outpatient services related to a COVID-19 diagnosis.

A copy of the Governor's executive order can be found here and text can be found here.

Learn more about the state's ongoing COVID-19 response efforts here. Visit covid19.ca.gov or covid19.ca.gov/es for critical steps Californians can take to stay healthy, and resources available to those impacted by the outbreak.

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EXHIBIT 4

DEPARTMENT OF FINANCE
OFFICE OF THE DIRECTOR

GAVIN NEWSOM - GOVERNOR
STATE CAPITOL ■ ROOM 1145 ■ SACRAMENTO CA ■ 95814-4998 ■ WWW.DOF.CA.GOV

April 15, 2020

Honorable Holly Mitchell, Chair
Joint Legislative Budget Committee
Senate Budget and Fiscal Review Committee

Honorable Phil Ting, Chair
Assembly Budget Committee

Honorable Anthony Portantino, Chair
Senate Appropriations Committee

Honorable Lorena Gonzalez, Chair
Assembly Appropriations Committee

Section 36.00—Department of Social Services, Increase of Emergency Funding for COVID-19 Response

Pursuant to the provisions of Section 36.00, Chapter 2, Statutes of 2020 (SB 89), the following report is respectfully submitted.

Augmentations to the following Budget Act items are needed to provide support to state government and nonprofits to protect the health and safety of Californians and reduce the spread of the COVID-19 outbreak. This letter is notification of a $50 million increased increment and a second $26.3 million increased increment to Section 36.00 funds. These funds are to be allocated to the Department of Social Services for these purposes:

- $63,300,000 to Item 5180-151-0001 to award grants or contracts to community-based nonprofit organizations to provide a one-time disaster cash benefit to assist undocumented immigrants negatively impacted by COVID-19 to deal with the specific needs arising from the COVID-19 pandemic. Services will include but not be limited to outreach, benefit eligibility determination, and benefit distribution.

- $10,000,000 to Item 5180-141-0001 to implement and administer the federal Pandemic Electronic Benefit Transfer (P-EBT) benefits, which will provide $1.2 billion in federal food benefits to families with children eligible for free or reduced-price school meals that have been impacted by school facility closures due to COVID-19.

- $3,005,000 to Item 5180-101-0001 for the following:

    - $1,846,000 for the Department of Social Services to temporarily extend non-minor dependent foster care payments for youth who would have

otherwise had their payments terminated due to aging out of extended foster care. These resources will help maintain living arrangements and provide food security to avoid homelessness.

- $1,159,000 for the Department of Social Services to temporarily provide care and supervision rate flexibility for a foster youth or foster caregiver impacted by COVID 19, such as when there is a need for quarantine or isolation, or to avoid the use of shelter care or other facility settings as a result of COVID-19 placement disruptions.

We concur with the necessity of these changes to the enacted budget and will be approving these augmentations not sooner than 72 hours from the above date.

If you have any questions or need additional information regarding this matter, please contact Yang Lee, Principal Program Budget Analyst, at yang.lee@dof.ca.gov or 916-445-6423.

KEELY MARTIN BOSLER
Director
By:

VIVEK VISWANATHAN
Chief Deputy Director

cc: on following page

cc: Honorable Jim Cooper, Chair, Assembly Budget Subcommittee No. 4
Honorable Kevin McCarty, Chair, Assembly Budget Subcommittee No. 2
Honorable Dr. Joaquin Arambula, Chair, Assembly Budget Subcommittee No. 1
Honorable Anna M. Caballero, Chair, Senate Budget and Fiscal Review Subcommittee No. 4
Honorable Richard Pan, Chair, Senate Budget and Fiscal Review Subcommittee No. 3
Honorable Richard Roth, Chair, Senate Budget and Fiscal Review Subcommittee No. 1
Honorable Jim Nielsen, Vice Chair, Senate Budget and Fiscal Review Committee
Honorable Jay Obernolte, Vice Chair, Assembly Budget Committee
Gabriel Petek, Legislative Analyst (3)
Joe Stephenshaw, Staff Director, Senate Budget and Fiscal Review Committee
Kirk Feely, Budget Fiscal Director, Senate Republican Fiscal Office
Christopher W. Woods, Senate President pro Tempore's Office (2)
Christian Griffith, Chief Consultant, Assembly Budget Committee
Cyndi Hillery, Budget Director, Assembly Republican Caucus, Office of Policy and Budget
Jayme Chick, Deputy Chief of Staff, Policy, Assembly Republican Leader's Office
Joe Shinstock, Chief Consultant, Assembly Republican Leader's Office
Jason Sisney, Assembly Speaker's Office (2)
Mark McKenzie, Staff Director, Senate Appropriations Committee
Jay Dickenson, Chief Consultant, Assembly Appropriations Committee
Paula Villescaz, Assistant Secretary, Health and Human Services Agency
Kim Johnson, Director, Department of Social Services
Jennifer Troia, Chief Deputy, Department of Social Services
Marcela Ruiz, Director of Equity, Department of Social Services
Salena Chow, Bureau Chief, Department of Social Services